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REGION 2 NEWS

Newsday: Federal EPA won't investigate Northport contamination, but will review findings

The U.S. Environmental Protection Agency will not investigate the contamination that led to the closing of Northport Middle School, a regional administrator said this week in a letter to Sen. Chuck Schumer, who earlier this month called for the agency to get involved.

Patch: EPA Responds To Schumer's Request For Involvement In Northport MS

The U.S. Environmental Protection Agency on Wednesday returned U.S. Sen. Chuck Schumer's letter requesting that the agency get involved in the investigation of Northport Middle School after high levels of chemicals were found on campus in January. While the EPA said it would continue communications with the New York State Department of Health and Suffolk County Department of Health Services, it won't perform its own investigation.

North County Public Radio: Cayuga Nation leadership dispute sparks demolition in NY

A long-simmering leadership dispute in the Cayuga Indian Nation erupted over the weekend with bulldozers razing several buildings on Cayuga land in western New York.

Brooklyn Paper: BAGGIN' IT: BROOKLYN BUSINESSES PREPARE FOR PLASTIC BAG BAN

Ahead of the state's ban on single-use plastic bags on March 1, Downtown Brooklyn businesses and shoppers are preparing for the sweeping changes with mixed feelings.

Newsday: Schumer knocks plan to move dredges repairing Long Island beaches to Florida

Sen. Chuck Schumer blasted the U.S. Army Corps of Engineers on Sunday for a plan to pull crews and dredges from Long Island so they could work on a nonemergency project near President Donald Trump's Mar-a-Lago resort in Florida.

New Jersey Spotlight: DEP Seeks Public Input on Rules to Cut Climate-Altering Emissions

The state Department of Environmental Protection held the first of three public information sessions to seek input on how to write the rules, collectively known as Protecting Against Climate Threats (NJ PACT), that will implement the order, issued in January.

New Jersey Spotlight: NJ's Two Biggest Utilities Finish Near Bottom on New Energy-Efficiency Scorecard

The nation's 52 largest electric utilities have dramatically increased energy savings, a trend, in part, driven by a push to curb greenhouse-gas emissions, according to a new scorecard by the American Council for an Energy-Efficient Economy.

WCBS 880: NY, NJ And Conn. Sue Trump Again Over Out-Of-State Polluters

New York, New Jersey, and Connecticut are among the states suing the Trump administration—again—over out-of-state polluters.

NJ.com: On plastic scourge, it's time to lead, Mr. Speaker | Editorial

With requisite gravitas, Assembly Speaker Craig Coughlin affirms, “I’m committed to banning single-use plastic bags — the time has come, it’s abundantly clear that it’s good for everybody.”

Poughkeepsie Journal: This controversial natural-gas pipeline won't go forward in New York

After a four-year battle with the state, the owner of a proposed natural-gas pipeline through the Southern Tier said Friday it will not move forward with the struggling project.

Westchester Magazine: Westchester Was Just Awarded \$3 Million for Hybrid Buses

Governor Andrew Cuomo has awarded Westchester County \$3 million to go toward the purchase of a fleet of clean-fuel hybrid buses.

Times-Union: DEC clears Ballston Spa brownfield for development

A building once deemed a brownfield site is now cleaned up and ready for development as a cornerstone to the village’s revitalization.

EnergyWire: N.Y. fossil fuel plants, hamstrings renewables

he Federal Energy Regulatory Commission yesterday, for the second time in three months, altered the rules in a major power market to make it easier for fossil fuel power plants to stay in business in the face of competition from cheaper clean energy.

Gothamist: NY's Plastic Bag Ban Begins March 1st. Here's Everything You Need To Know

In about a week, New York State will finally catch up to European countries as well as the states of California and Hawaii by drastically reducing single-use plastic bags.

Patch: NYC Isn't Ready For The Plastic Bag Ban, Lawmakers Say

New York City isn't ready for the plastic bag ban, according to store owners demanding its delay.

Lehigh Valley Live: Waste Management seeks rezoning for \$42M expansion of Slate Belt landfill

Waste Management would like to expand its landfill operations by 81 acres. But there’s one major hitch. The land is zoned for use as farm and forest.

E&E News PM: States sue EPA over ozone enforcement

New Jersey is leading a fresh lawsuit against EPA for allegedly failing to follow the law in dealing with ozone-forming emissions that cross state lines.

Buffalo News: Brownfield, Superfund efforts are win-win at Tonawanda Coke

The state Department of Environmental Conservation made the right call on the Tonawanda Coke property. A private brownfield cleanup plus a parallel state Superfund remediation will get the toxin-filled land cleaned to the highest standard while restoring part of the property to be put back into productive use. That is a win-win.

Newsday: Grumman plume handling called 'outrageous,' 'shameful'

ALBANY — Gov. Andrew M. Cuomo and other top New York officials on Wednesday criticized aerospace giant Grumman and the U.S. Navy for keeping information secret and dragging out the cleanup of an underground contaminated plume that’s been spreading for more than 50 years.

NORLITE LAWSUIT

Times-Union: PFAS Incineration at the Norlite Facility in Cohoes/Colonie

Recently a lawsuit was filed by environmental advocacy groups against the U.S. Department of Defense (DOD) and other entities based on the incineration of firefighting foam containing perfluoroalkyl and polyfluoroalkyl

(PFAS) chemicals at the Norlite facility in Cohoes. The DOD has a contract with Norlite to dispose of these materials. A lack of environmental prior to the incineration activity to ensure that public health and safety has been adequately protected has come into question.

WAMC: DEC Investigating Norlite Facility

After a federal lawsuit this week claimed that PFAS-based substances were incinerated at the Norlite facility in Cohoes, the New York state Department of Environmental Conservation says it is investigating.

Times-Union: Activists file lawsuit over Cohoes Norlite plant burning, storing PFOA for Defense Department

Environmental groups are suing to stop the burning of the highly toxic chemical compounds PFOA and PFOS at the Norlite incineration plant in Cohoes.

PUERTO RICO EARTHQUAKE NEWS

El Nuevo Dia (via Google Translate): Ben Carson signs the grant agreement for the next \$ 8.2 billion in CDBG-DR funds

The Secretary of the Federal Department of Housing (HUD), Ben Carson, signed today, Friday, the grant agreement for the next \$ 8.221 million in community development program disaster relief funds (CDBG-DR) that Puerto Rico can receive , in order to address the damage caused by Hurricane Maria.

NATIONAL

The Hill: EPA will regulate 'forever chemicals' in drinking water

Bloomberg Environment: EPA Moves Closer to Regulating PFAS in Drinking Water

WHNT (Huntsville, AL) - The EPA is planning to monitor PFAS in drinking water

Inside EPA: EPA finalizes 'low priority' designations for 20 TSCA chemicals

Associated Press: EPA will regulate two toxic chemicals in drinking water

Politico: EPA proposes regulating 2 PFAS chemicals in drinking water

E&E News: Pa. gets EPA funding for stormwater projects

Law 360: EPA Says 2 Chemicals Could Be Regulated In Drinking Water

Bergen Record: New Jersey sues Trump's EPA again to curb air pollution entering from other states

Inside EPA: In Rare Step, EPA Proposes To Craft SDWA Limits For PFOA, PFOS

EE News: EPA starts long road toward standards for 2 toxins

EE News: Groups to Wheeler: Cut truck NOx emissions by 90%

EE News: Greens go after emergency pesticide approvals

EE News: Pushback against states' group prompts request for IG review

The Hill: EPA moves to limit financial pressure on 'forever chemical' manufacturers under cleanup law

ABC 7 Bay Area: What is TCE?: Here's what you need to know about chemical detected near McClymonds HS

Inside EPA: EPA's MATS Rollback Stalls At OMB Over Cost-Benefit Confusion, Opposition

FULL ARTICLES

Newsday

<https://www.newsday.com/long-island/environment/epa-northport-middle-school-1.42043609>

Federal EPA won't investigate Northport contamination, but will review findings

By Catherine Carrera

February 21, 2020 (updated)

The U.S. Environmental Protection Agency will not investigate the contamination that led to the closing of Northport Middle School, a regional administrator said this week in a letter to Sen. Chuck Schumer, who earlier this month called for the agency to get involved.

Instead, the agency will review findings from the study done by PW Grosser Consulting Inc., the environmental firm hired by Northport-East Northport schools to study the grounds and air at the Middleville Road building.

The school has been closed since Jan. 23, after the firm found in two septic tanks high levels of benzene, a chemical that has been linked to causing cancers of blood cells, such as leukemia.

The EPA had a conference call Tuesday with the state Department of Health, the Suffolk County Department of Health Services, the state Department of Environmental Conservation and school district officials to discuss PWGC's investigation of the hazardous chemicals, wrote EPA regional administrator Peter Lopez.

The agency found that a "parallel federal site investigation at Northport Middle School would not provide any new information," Lopez said. "The efforts already conducted in addition to the work planned by the school district and PWGC is equivalent to the work that would be performed by EPA as part of a new site investigation."

The benzene at the school was found in a septic tank connected to the kitchen and in another connected to the gymnasium, Superintendent Robert Banzer said in an email last month. The levels detected were "at an actionable level per the Suffolk County Department of Health Services," Banzer said.

"We eagerly await the results of the current testing being done by the school district's environmental contractor, and based on those results, we will urge EPA and state regulators to take any appropriate action to ensure the health and safety of our children and school workers," Schumer (D-N.Y.) said Friday in response to the federal agency's letter.

In addition to benzene, the firm had found elevated levels of mercury in cesspools outside the building, adjacent to the science classrooms. About 660 sixth-, seventh- and eighth-grade students were moved to other school buildings in the district.

The findings came as the New York State Department of Health began to investigate cancer occurrence in the school district after a health department review found a statistically significant higher rate of leukemia among the Northport High School Class of 2016, Newsday reported.

Following the reports, Schumer wrote a letter Feb. 3 to the EPA urging the agency to "utilize all of its available authority, as well as its considerable technical expertise, to quickly investigate and address the possible contamination."

After the firm's findings are submitted, the EPA will review and provide technical assistance and support as needed, EPA spokesperson Elias Rodriguez said Friday.

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Patch

<https://patch.com/new-york/northport/epa-responds-schumers-request-involvement-northport-ms>

EPA Responds To Schumer's Request For Involvement In Northport MS

Sen. Chuck Schumer asked the agency to help in the investigation of hazardous chemicals on school grounds.

By Michael DeSantis

February 21, 2020

The U.S. Environmental Protection Agency on Wednesday returned U.S. Sen. Chuck Schumer's letter requesting that the agency get involved in the investigation of Northport Middle School after high levels of chemicals were found on campus in January. While the EPA said it would continue communications with the New York State Department of Health and Suffolk County Department of Health Services, it won't perform its own investigation.

Schumer wrote to the EPA on Feb. 3 after elevated levels of mercury were found in a cesspool 10 feet from the building and high levels of benzene were discovered in soil samples from two septic systems, courtesy of testing done by the environmental firm PW Grosser Consulting. The senator asked the EPA to work with local officials and state regulators to investigate on and near the campus.

Peter Lopez, an EPA regional administrator, told Schumer that his staff reached out to state and county health officials to discuss current and future plans. The EPA hopped on a conference call with both agencies, as well as the state Department of Environmental Conservation and Northport-East Northport Union Free School District on Tuesday. The EPA learned about the environmental firm's investigation and that the firm finished its first sampling phase.

"Based on the information provided by both the NYSDOH and SCDHS, EPA has determined that conducting a parallel federal site investigation at the Northport Middle School would not provide any new information that would not otherwise be identified under the investigation currently being performed by PWGC," Lopez told Schumer in a letter. "The efforts already conducted in addition to the work planned by the school district and PWGC is equivalent to the work that would be performed by EPA as part of a new site investigation."

The EPA has a close working relationship with NYSDOH and SCDHS, Lopez said. He expects the two agencies will address Schumer's concerns, especially with children present.

"EPA's core mission is to protect human health and the environment, and one of our top priorities is protecting children's health," Lopez said.

In January, the [school district shut down Northport Middle School](#) for the rest of the academic year. Middle-schoolers were relocated to other buildings throughout the district. Schumer said district officials made the right call, but said the temporary closure needs to be taken advantage of to swiftly find critical answers rooted in science. In his letter to EPA Administrator Andrew Wheeler, Schumer called the EPA the correct agency for the job. For now at least, the EPA won't be conducting its own investigation.

"Based on our conversations with the several agencies involved, we think that the best path forward is the one we are currently on," Lopez said.

The EPA agreed with Schumer that the discovery of hazardous chemicals around the school demands additional data be gathered in order to address the issues and determine the best way to remove the contaminants.

Lopez said preliminary air testing performed by the environmental firm showed no volatile organic compounds were found inside the building or from soil vapor samples, and there was no detection of mercury vapor inside

the school. PWGC did find mercury in a sediment sample collected at the bottom of the cesspool, however. The EPA said there is no direct exposure route to people since it was found below grade structure.

The school district reported elevated benzene levels were detected in two different septic systems on the southern and eastern sides of the building, Lopez said. The findings will require the school district, working with the SCDHS, to develop a plan to address the contamination, according to the EPA. The district indicated it intends to submit a plan for the work to SCDHS within the next couple of weeks, Lopez said.

In a separate study, the NYSDOH announced it is expanding its investigation of cancer within the Northport-East Northport Union Free School District. The department said since March 2019, it has been looking into cancer cases, primarily leukemia, reported among the Northport High School Class of 2016. The department recently told Patch it will be looking at cancers among children and adults across the entire school district over a longer time period.

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North County Public Radio

<https://www.northcountypublicradio.org/news/story/40682/20200224/cayuga-nation-leadership-dispute-sparks-demolition-in-ny>

Cayuga Nation leadership dispute sparks demolition in NY

By The Associated Press

February 24, 2020

A long-simmering leadership dispute in the Cayuga Indian Nation erupted over the weekend with bulldozers razing several buildings on Cayuga land in western New York.

The buildings demolished early Saturday in Seneca Falls housed businesses, a longhouse and a day care center. A statement from the Cayuga Nation said it demolished the buildings for public safety reasons. It said the properties were seized in 2014 by a group that disputes the authority of Cayuga leader Clint Halftown, who ordered the demolition.

The Seneca County Board of Supervisors met Sunday and approved a motion calling on for U.S. Marshals to get involved to ensure safety in the area.

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Brooklyn Paper

<https://www.brooklynpaper.com/baggin-it-brooklyn-businesses-prepare-for-plastic-bag-ban/>

BAGGIN' IT: BROOKLYN BUSINESSES PREPARE FOR PLASTIC BAG BAN

By Kevin Duggan

February 24, 2020

Ahead of the state's ban on single-use plastic bags on March 1, Downtown Brooklyn businesses and shoppers are preparing for the sweeping changes with mixed feelings.

The ban will make it illegal for nearly all people or businesses who collect state sales tax to distribute carry-out plastic bags, and the city will require retailers to collect a five cent fee for paper bags from all customers — except for the beneficiaries of food assistance programs, who are exempt from the fee. To further move away from single-use packaging, the city will force sellers to provide reusable bags for sale.

The new law aims to cut back on the more than 10 billion single-use plastic bags New York City residents use every year, which harm the environment and costs the city government \$12 million annually to dispose of.

One Downtown deli manager said it's about time the government step up to the task of cutting back on the waste.

"One step is better than no step — even if it's a small step, I think we're heading in the right direction," said Mused Algameos, who runs Skyline Gourmet on the corner of Willoughby and Lawrence streets. "I think it's good for the environment, I'm all for it."

A limited number of items will be exempt from the ban, such as uncooked animal products and loose foods for hygiene reasons or prescription drugs at pharmacies for privacy.

Brooklyn has been at the epicenter of the effort to curb plastic bags since Park Slope Councilman Brad Lander first proposed similar legislation in 2013 — but the move was held up by resistance among state lawmakers, before Governor Andrew Cuomo eventually signed a state bill making Lander's proposal redundant.

In response to the pending rule change, Algameos and the corner shop's owner, Richy Saidi, have stopped ordering the traditional black plastic bags and switched to paper versions with handles, the merchant said.

But the manager of a Court Street hardware store was more skeptical of the ban, saying that officials are punishing small businesses by making them shoulder the cost.

"We can charge them five cents, but the bag is going to cost us 30 cents," said Sal Licata of Bruno's Home Center between Livingston and Schermerhorn streets. "What's going to happen, I'm going to make the customer pay for it with a higher price."

Some business operators weren't fully aware that their stores had to comply with the law change, such as the manager of the clothing emporium Jimmy Jazz on the Fulton Mall, who said that he would continue using their large plastic bags in spite of the ban.

"I heard it was going to affect grocery stores, but I didn't know it was going to affect any other stores," said Kelsey Ferdinand.

But retailers that violate the law will only face a warning for their first violation, followed by a \$250 for their second infraction, and then \$500 for every time they break rules in the same calendar year thereafter.

City officials are encouraging New Yorkers to get reusable bags and the Sanitation Department is offering free flashy orange bags that fold into a pouch and are made from 90% recycled materials for anyone that takes a so-called "Zero Waste Pledge" online.

Brooklynites have been sporting their own reusable bags for years, including one Bay Ridgite who said the law won't stifle business.

"It's not going to affect business because people still need to shop," said Kelly Davis. "People need to get over it and just carry their own bags."

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Newsday

<https://www.newsday.com/long-island/suffolk/fimi-army-corps-of-engineers-dredges-1.42115700>

Schumer knocks plan to move dredges repairing Long Island beaches to Florida

By Michael O'Keeffe

February 24, 2020 (updated)

Sen. Chuck Schumer blasted the U.S. Army Corps of Engineers on Sunday for a plan to pull crews and dredges from Long Island so they could work on a nonemergency project near President Donald Trump's Mar-a-Lago resort in Florida.

Schumer (D-N.Y.) called on the Army Corps of Engineers at a news conference in his Manhattan office to keep the crews and dredging equipment on Long Island's South Shore, where they are working on two projects to repair beaches damaged by superstorm Sandy in 2012.

The Army Corps of Engineers told Schumer and other officials that its contractor Weeks Marine would return to New York to finish work in Point O' Woods and Ocean Bay Park in Fire Island, part of the Fire Island to Moriches Inlet Stabilization Project (FIMI), by the June 19 deadline.

"The South Shore of Long Island and the communities on Fire Island still deal with the daily threat that the occurrence of another extreme weather event similar to the scale of Sandy could bring catastrophic levels of devastation," Schumer wrote Sunday in a letter to Lt. Gen. Todd Semonite, the commanding officer of the corps. "That is why the timely completion of coastal resilience projects like FIMI is imperative and the sudden relocation of these dredges deserves scrutiny."

A spokeswoman for Rep. Lee Zeldin (R-Shirley), however, said the Army Corps of Engineers told the congressman the Long Island projects could be completed well in advance of the June 19 deadline despite the planned detour to Florida.

"The Army Corps of Engineers has reconfirmed to Congressman Zeldin that the Westhampton Beach project will be completed on or about March 9 and the Point O'Woods and Ocean Bay Park project will be completed on or about May 18, which is before the contracted completion date of June 19," Zeldin aide Katie Vincentz said.

The Army Corps of Engineers told local officials earlier this month that Weeks Marine would complete a beach-restoration project in Westhampton by March 9. The company's two dredges, joined by a third dredge repairing beaches in Monmouth County, New Jersey, will then travel to Florida, where they will be used to restore beaches in Palm Beach near Trump's Mar-a-Lago resort. The corps said the two dredges from Long Island would then return in April and finish the Point O'Woods and Ocean Bay Park work.

Schumer, the Senate minority leader, said he wants to know who made the decision to move crews and dredges from Long Island to Florida, and why that decision was made.

A spokesman for the corps' New York District did not return a call for comment.

Schumer said the decision to redirect resources and crews repairing damage caused along the South Shore by superstorm Sandy in 2012 is the latest attack on New York State by the Trump administration. He said hundreds of thousands of New Yorkers have been burdened with higher taxes as a result of the \$10,000 cap on state and local tax deductions included in the 2017 Tax Cuts and Jobs Act. The Trump administration has stalled progress on the Gateway Program, which would add rail tunnels under the Hudson River, he added.

"When that tunnel [the North River tunnel that was built more than a century ago and was damaged by Sandy] stops functioning, the whole Northeast will come to a standstill," Schumer said.

Earlier this month, the Trump administration announced that it will ban New Yorkers from enrolling in programs that expedite border crossings, a reaction to a new state law that allows undocumented immigrants living in the country illegally to obtain driver's licenses.

"Everything they do is almost vindictively aimed at New York," Schumer said of the Trump administration.

In a prepared statement Suffolk County Legis. Bridget Fleming (D-Sag Harbor), said of the plan to move the dredges, "It's disappointing because leaders across the entire South Shore of Long Island have worked together — across party lines — since the days after Superstorm Sandy to improve resiliency and to protect our critical environment and shoreline."

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New Jersey Spotlight

<https://www.njspotlight.com/2020/02/dep-seeks-public-input-on-rules-to-cut-climate-altering-emissions/>

DEP Seeks Public Input on Rules to Cut Climate-Altering Emissions

Critics say there's no time for regulation; urge immediate ban on new fossil fuel permits

By Jon Hurdle

February 24, 2020

The state Department of Environmental Protection held the first of three public information sessions to seek input on how to write the rules, collectively known as Protecting Against Climate Threats ([NJ PACT](#)), that will implement the [order](#), issued in January.

The other two meetings will focus on ways to reduce carbon dioxide emissions, and plan for sea-level rise, extreme weather events and flooding, on Feb. 25 and March 2, respectively.

Friday's session set out [DEP's plans](#) for monitoring and reporting greenhouse gas emissions (GHGs) from sources such as refineries, natural gas pipelines and fuel distributors. The department also said it will track emissions from power plants, including those out of state that supply electricity to New Jersey.

Natural gas utilities that distribute the fuel to end users will also contribute data during the regulatory process, which DEP Commissioner Catherine McCabe ordered in January. The department said it will collect data on the volume of gas received, distributed and stored, as well as the number and type of customers.

Amid concerns that leakage of methane, a potent greenhouse gas, erodes the cleaner-burning benefits of natural gas, DEP also plans to monitor GHG emissions from natural gas operations such as flaring, storage tanks and compressor stations.

Transportation is primary source of GHGs

According to DEP data from 2018, transportation is by far the biggest source of GHGs, emitting some 40 million metric tons of carbon dioxide that year, followed by electric generation and commercial & industrial operations, which each emit less than half the transportation volume.

The department said it will also monitor other sources of methane emissions such as landfills, while collecting data on hydrofluorocarbons, used largely in refrigeration, and short-lived pollutants such as black carbon from diesel exhaust.

In each emissions category, DEP invited stakeholders to propose any other significant sources of GHGs that could contribute to the inventory, and asked whether there are better ways of collecting the data than those currently proposed.

“We’re trying to capture stakeholder input on exactly what information should be included in the monitoring report, what are the best ways to access the information, and to get a general feel about what other people think are the best ways to approach it,” said Paul Baldauf, DEP’s assistant commissioner for air quality, energy and sustainability, after the three-hour meeting that about 60 people attended at DEP headquarters in Trenton.

Baldauf called the meeting “very valuable” because it alerted officials to topics such as ways of avoiding double-counting of emissions, and how to monitor emissions from the airline industry, that they hadn’t previously considered. “It gives us a good path forward, as we move through the rule process, to dig deeper into some of these issues,” he said.

Environmentalists argued that the climate crisis is too urgent to wait for the rulemaking process — which Murphy’s order requires to conclude by June 2021 — and that the state should be making deep carbon cuts immediately in the hope of avoiding the worst consequences of climate change.

‘Can’t afford to wait’

“Our planet is about to become as hot as hell,” said David Pringle, a consultant to the environmental group Clean Water Action. “The urgency here is totally lacking. We can’t afford to wait.”

He urged Murphy to issue an emergency executive order that would stop permitting of any new GHG sources until the state has the rules in place to comply with the Global Warming Response Act (GWRA), a 2007 law that requires the state to cut emissions to 1990 levels by this year, and 80% from 2006 levels by 2050.

The law was amended last year to require DEP to set up a GHG monitoring and reporting program within 18 months of when the bill was enacted in July 2019. DEP is unlikely to propose the new rules by the statutory deadline of January 2021, but will meet the governor’s deadline of June that year, Baldauf said.

The day before the DEP meeting, some 100 environmental groups called on the state to cut emissions by 45% from 2010 levels by 2030, in line with a recommendation from the UN’s Intergovernmental Panel on Climate Change (IPCC), which said in 2018 that global emissions would have to fall at that rate to limit global warming to 1.5 degrees Celsius.

The Jersey Renews coalition said the state has taken “significant steps” to cut emissions via the GWRA, the administration’s Energy Master Plan and Murphy’s executive order, but that none of those measures mentions the IPCC target.

Murphy’s order said New Jersey is “especially vulnerable” to the effects of climate change including sea-level rise and increased flooding, with “potentially disastrous consequences” for public safety and the state’s economy. In an apparent warning to energy companies, the order said that “unrestrained development” of fossil fuel infrastructure would result in more GHG emissions that could stop the state from meeting its carbon-reduction goals.

John Reichman, a member of BlueWaveNJ, a progressive group that supports the Jersey Renews campaign, said there should be an immediate moratorium on new fossil fuel projects, and that DEP should speed up its rulemaking process.

“Time is of the essence with respect to dealing with the climate emergency,” Reichman said after the meeting. “DEP could have had these rules in place already. Now, they’re saying they’re not even going to meet the statutory deadline for providing rules by January 2021.”

Avoiding climate change’s worst effects

Activists say the worst effects of climate change could be avoided by immediate deep cuts in carbon emissions worldwide. A decline in the addition of heat-trapping gases could, for example, slow the rate of sea-level rise,

which is expected to increase water levels at the Jersey Shore by as much as 6.3 feet from 2000 levels by the end of the century if there's unchecked global growth in fossil fuel consumption, according to the latest projections by the Rutgers Climate Institute.

In the business community, much of the emissions information that will be sought by DEP is already supplied to state and federal authorities, said Toby Hanna, a partner with Environmental Resources Management, which helps clients including DuPont, General Electric and Oracle to pursue sustainable business practices.

He said DEP's new demands appear to indicate that companies won't be required to submit significantly more emissions data.

"We did get the assurance publicly today that they are going to work with the regulated community, the reporters, to use information that's already available," Hanna said after the meeting.

New Jersey Spotlight

<https://www.njspotlight.com/2020/02/njs-two-biggest-utilities-finish-near-bottom-on-new-energy-efficiency-scorecard/>

NJ's Two Biggest Utilities Finish Near Bottom on New Energy-Efficiency Scorecard

PSE&G and Jersey Central Power & Light wind up in bottom 10 on ACEEE scorecard

By Tom Johnson

February 24, 2020

The nation's 52 largest electric utilities have dramatically increased energy savings, a trend, in part, driven by a push to curb greenhouse-gas emissions, according to a [new scorecard](#) by the American Council for an Energy-Efficient Economy.

But New Jersey's two biggest electric utilities lagged far behind many of their peers, finishing in the bottom 10 based on metrics used by the ACEEE. Public Service Electric & Gas, the state's largest utility with roughly 2 million customers, ranked 42nd while Jersey Central Power & Light finished 48th.

The scorecard comes at a time of rapid transformation in the utility sector, changes impelled by warnings from scientists that time is running out to avert the worst impacts of climate change and needs to dramatically reduce use of fossil fuels.

In New Jersey, the Murphy administration is aggressively seeking to shift how energy is used, moving to cleaner renewable sources of energy and forcing utilities to reduce how much electricity and gas they use. At the same time, the state is looking to curb greenhouse-gas emissions by 80 percent below 2006 levels by midcentury.

Tracking power trends

The ACEEE scorecard found that as a group the utilities boosted their annual energy savings by 20 percent since 2015, almost enough electricity to power 1.8 million homes. Two notable trends: utilities are increasing efficiency investments in low-income communities (on average) and speeding the adoption of electric plug-in vehicles.

New Jersey is moving to adopt some of those strategies, including a comprehensive program to build out the infrastructure for electric vehicles, but state regulators have failed to act on proposals from utilities to play a part in that venture.

The state Board of Public Utilities also is hoping to propose rules that would require electric utilities to reduce customer energy use by 2% a year by this spring, under a law signed by Gov. Phil Murphy in 2018.

Explaining NJ's lackluster finish

To utilities and many environmentalists, the main reason New Jersey lags behind in energy efficiency is it has no mechanism to compensate utilities for the lost revenue when they spur customers to use less gas or electricity.

According to Steve Nadel, ACEEE's executive director, states that scored the highest were ones that have established energy-efficiency resource standards. They also offer financial opportunities for utilities to maintain and increase revenues while increasing energy efficiency. That remains a big hurdle in New Jersey, where no consensus has been reached about what a new energy-efficiency program will entail.

PSE&G alluded to that issue in responding to the ACEEE scorecard. "The ranking reflects New Jersey's current approach to energy efficiency," said Michael Jennings, a spokesman for the utility. It has been by far the most aggressive utility in funding investments in energy efficiency.

The utility has filed a \$2.8 billion energy-efficiency proposal with the BPU, which has put off acting on it until it adopts new regulations for the program mandated by the 2018 Clean Energy Act. Instead, last week it approved a six-month extension that will allow PSE&G to spend \$130 million on five of its existing energy-efficiency programs.

PSE&G said it is participating in the current stakeholder effort to develop new regulations; Jennings said the utility hopes to integrate the best practices cited by ACEEE for reducing customer energy usage. "If that occurs, the rankings of New Jersey utilities should improve," he said.

But David Pringle, a consultant for Clean Water Action, questioned why PSE&G is always trying to shift costs on to ratepayers. "Why doesn't PSE&G do these projects on their own and have their shareholders pay for it?" he asked.

JCP&L echoed sentiments similar to PSE&G's. "We look forward to implementing additional energy-efficiency programs and assisting the state and the Murphy administration in achieving their energy-saving goals," said Cliff Cole, a spokesman with the utility.

WCBS 880

<https://wcbs880.radio.com/articles/ny-nj-and-conn-sue-trump-again-over-out-of-state-polluters>

NY, NJ And Conn. Sue Trump Again Over Out-Of-State Polluters

By Steve Burns

February 23, 2020

New York, New Jersey, and Connecticut are among the states suing the Trump administration—again—over out-of-state polluters.

New Jersey Sierra Club Director Jeff Tittel said states can move toward clean energy, encourage electric cars and do all kinds of things to reduce their own pollution.

"(But) all that work we're doing doesn't really get the reductions we need, because of out-of-state pollution. Failure of the EPA to do its job," Tittel said.

Tittel said the Environmental Protection Agency hasn't been enforcing what are called "good neighbor" rules. Those rules require the EPA to take action against states that don't allow other states to meet federal air quality standards.

"What you don't realize in New Jersey is that a third of our air pollution comes from Pennsylvania and states to the west," Tittel said.

He said this collection of northeastern states has already sued and already won, but the ruling was ignored.

"To go back to court again to get them to do the job they should've done in the first place," Tittel said of the states' goal with the new lawsuit.

The American Lung Association ranks the New York metro area as the 10th worst in the country for ozone pollution. Ozone is the main ingredient in smog, which can trigger asthma attacks.

"You can feel it in your lungs. Your eyes will burn a little bit. You'll feel it in your mouth. It can make people very sick and even kill them," Tittel said. "Pollution doesn't know state boundaries."

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NJ.com

<https://www.nj.com/opinion/2020/02/on-plastic-scurge-its-time-to-lead-mr-speaker-editorial.html>

On plastic scourge, it's time to lead, Mr. Speaker | Editorial

By Star-Ledger Editorial Board

February 23, 2020

With requisite gravitas, Assembly Speaker Craig Coughlin affirms, "I'm committed to banning single-use plastic bags — the time has come, it's abundantly clear that it's good for everybody."

Bravo. Good on him. Now we all just have to wait, while the Speaker decides whether he wants meaningful environmental legislation or a counterfeit gesture that placates the plastic industry.

And the longer we wait, the more we trash our beaches, poison our wildlife, contaminate our drinking water, and endanger public health.

So after years of debate, delays, and dithering, what's the holdup?

Why is this so complicated, when a seminal bill has already passed the Senate once (during lame duck) and will likely get another Senate floor vote on March 5?

Why would the lower chamber let this opportunity pass again (as it did during lame duck), when 100-plus cities and towns already have ordinances for our lawmakers to emulate?

Why would we aim low now, when New Jersey can launch the most consequential ban in the country, with a bill that eliminates plastic bags, polystyrene, and paper bags 18 months after the governor signs it?

If you're looking for straight talk from the Speaker, it eludes you.

He admitted on a Feb. 14 radio chat that he's wavering on the rollout — instead of imposing all bans at once, he seemed to prefer a "staggered" schedule, with plastic banned in one year and paper in two, just so consumers, retailers, and suppliers have more time to transition to reusables. Fair enough. We can have that discussion. Again.

But then in a telephone conversation last week, Coughlin shared a list of quibbles torn right from the playbook of the New Jersey Food Council, which has a conflicted relationship with stuff that wrecks the planet.

Coughlin says he is for banning single-use plastic, but ask him about the thicker plastic bags that only the Council and the American Plastic Bag Alliance consider “reusable,” and he is vexed. “We have to take a hard look at that,” he said. “I want to make sure I understand...the science of that.”

Here’s the science of that: It’s substituting plastic for more plastic. As former EPA Regional Director Judith Enck put it, “The plastic industry wants to keep making plastic bags. And for them, the thicker the better.”

Coughlin also waffles when discussing Styrofoam (“I’m a little open” to it, he said) which the Food Council opposes banning — even though it doesn’t biodegrade, it leaches into food, and it is as great a scourge as plastic.

Meanwhile, the stakeholders — environmentalists, lawmakers, most New Jerseyans — thought this was settled a long time ago.

But it’s not locked up until the leaders say so, and by all accounts, there has been an alarming lack of leadership on this issue. Gov. Murphy, who reportedly cannot reconcile the paper facet, has been mute. Senate President Steve Sweeney got the bill passed once, but he is obstinate about the rollout schedule. And Coughlin, usually a grounded fellow, is all over the map.

Senator Bob Smith, who has led this effort for nearly a decade, explained that “Everyone’s squishy about it — that makes it hard to get to the finish line. But if we fail on this, shame on us. Shame on the Legislature, shame on everybody.”

Assemblyman John McKeon, another longtime sponsor, is more blunt: “At this point,” he spat, “this is just inexcusable.”

Indeed, this bill — this planet — deserve more respect. The Speaker needs to get his fellow kingpins in a room, or get out of the way. His legacy is calling.

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Poughkeepsie Journal

<https://www.poughkeepsiejournal.com/story/news/local/new-york/2020/02/22/controversial-natural-gas-pipeline-constitution-wont-go-forward-new-york-pennsylvania/4837672002/>

This controversial natural-gas pipeline won’t go forward in New York

By Joseph Spector

February 22, 2020

After a four-year battle with the state, the owner of a proposed natural-gas pipeline through the Southern Tier said Friday it will not move forward with the struggling project.

The controversial 124-mile long Constitution pipeline would have brought natural gas from Pennsylvania into the Southern Tier before stopping just outside Albany.

But Williams Partners LP, the gas company heading the project, said it is ending its pursuit after court battles with New York regulators have delayed the construction since 2016.

"Williams — with support from its partners, Duke, Cabot and AltaGas — has halted investment in the proposed Constitution project," the Tulsa-based company said in a statement.

"While Constitution did receive positive outcomes in recent court proceedings and permit applications, the underlying risk adjusted return for this greenfield pipeline project has diminished in such a way that further development is no longer supported."

The project took a step forward last August when the Federal Energy Regulatory Commission found the state Department of Environmental Conservation erred in rejecting a critical water-quality permit for the pipeline.

But the DEC and Gov. Andrew Cuomo vowed to continue to fight the project, part of a long-standing effort by the Democratic governor to cut New York's fossil-fuel emissions.

New York has a ban on hydraulic fracturing for natural gas and a goal of net-zero emissions by 2050.

"Any way that we can challenge it, we will," Cuomo said after the FERC decision.

Williams said it believes natural gas remains "a critical part of our country's clean energy future" and would continue its work elsewhere.

"Our existing pipeline network and expansions offer much better risk adjusted return than greenfield opportunities, which can be impacted by an ambiguous and vulnerable regulatory framework," the company's statement continued.

Environmental groups fought the project and applauded the company's decision.

"Defeating the Constitution Pipeline is an enormous victory for advocates who have been fighting for eight years to protect New York State and its waterways," Moneen Nasmith, a staff attorney for Earthjustice, said in a statement.

"At this critical moment for our climate, we cannot afford unnecessary fossil fuel projects that will lead to more fracking and exacerbate our climate crisis."

The state's fight against new gas pipelines has strained its energy resources, leading to a natural gas shortage, some utility companies have said.

More: After ending National Grid gas ban, Cuomo turns to ConEd: 'We are not going to be bullied'

The lack of supply led Con Edison and National Grid last year put moratoriums in place on new gas hookups in parts of Long Island, New York City and Westchester County.

Under pressure from Cuomo and state regulators, National Grid reached a deal with the state to end its moratorium on Long Island last November.

But the Con Ed moratorium has persisted in southern Westchester for nearly a year.

"We are going to be going through the same process," Cuomo said in November about ending the Con Ed fight.
"We are fine with legitimate discussion, but we are not going to be bullied."

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Westchester Magazine

<https://westchestermagazine.com/life-style/news/westchester-3-million-hybrid-buses/>

Westchester Was Just Awarded \$3 Million for Hybrid Buses

Governor Andrew Cuomo has awarded Westchester County \$3 million to go toward the purchase of a fleet of clean-fuel hybrid buses.

“Thank you to Governor Cuomo for recognizing the need here in Westchester County to provide safe, clean, and green transportation,” says County Executive George Latimer. “This money will go a long way to furthering the electrification of our fleet.”

The news comes on the heels of Latimer recently introducing legislation to require electric charging stations in all new and newly renovated county owned parking garages and lots.

The county is going to great lengths to reduce its carbon footprint, with the Director of Energy Conservation and Sustainability Pete McCartt saying, “This funding will help as we further electrify our fleet, doing our part to reduce our carbon footprint by mitigating our greenhouse gas emissions. We are on track to have our entire transit bus fleet running on either electric or electric-hybrid by 2025.”

The changeover has been an initiative of Latimer’s since the beginning of his administration, originally promising a fleet of six-dozen diesel-electric 60-foot buses, 40 40-foot models, and two full-electric buses. Those buses already in use have reportedly saved Westchester over one million gallons of fuel, while preventing 18,400 tons of greenhouse gas emissions from polluting the environment.

Cuomo’s award to Westchester is part of a larger plan where the governor designates 14.2 million in State funding to counties and cities in order to modernize public transportation services.

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Times-Union

<https://www.timesunion.com/news/article/DEC-clears-Ballston-Spa-brownfield-for-development-15074270.php>

DEC clears Ballston Spa brownfield for development

By Wendy Liberatore

February 21, 2020

A building once deemed a brownfield site is now cleaned up and ready for development as a cornerstone to the village’s revitalization.

Mayor Larry Woolbright said the former Haight/American Hide on Bath Street, also known as the Angelica laundry, has been cleared by the state Department of Environmental Conservation and primed to become a mixed-use building – commercial on the first floor with condos on the second.

“It’s in the central business district,” Woolbright said of the 66,700-square-foot, brick industrial complex. “There is an idea to build upon the two-floors. There is a lot of property there, more than 6 acres, so there is room for other buildings, parking and all sorts of opportunities.”

The Saratoga County Prosperity Partnership is guiding the village's revitalization of its commercial core. As part of that, SCPP President and CEO Shelby Schneider said the organization conducted a survey. Of the 416 responses, Schneider said “there was a considerable number of people who wanted housing geared towards those looking to downsize and housing to attract young business professionals to the village.”

The survey also asked Ballston Spa residents and business owners what types of businesses they would like to see in the village, she explained.

"Some of the top answers were a diversity of restaurants, small businesses, a brewery and an entertainment venue," Schneider said. "We will be presenting the full survey results at a later village forum."

In 2015, DEC told the Times Union that the 6.3 acre site was contaminated by toxic heavy metals and chemicals likely associated with its use by the tannery, which closed in 1960.

DEC documents show that as part of the cleanup undertaken by Angelica Textile Laundry Services, which operated there from 1977 through 2010, 3,390 tons of petroleum-contaminated soil were removed. Clean fill was brought in to replace it. In addition to the soil, the area was polluted with scrap leather material, along with 126,000 gallons of tainted groundwater. All were removed from the site and disposed of in 2015.

The DEC Fact Sheet also indicates a large smokestack, a pump house and foundation ruins were demolished. An environmental easement was placed on the property, the DEC notes "to prevent future exposure to any contamination remaining at the site and to ensure implementation of the SMP (site management plan)."

During the cleanup, in September 2018, Saratoga County filings show, James Beaudoin of Ballston Spa purchased the property at auction for \$160,000. On Friday, Beaudoin was away and unreachable by the Times Union.

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EnergyWire

<https://www.eenews.net/energywire/2020/02/21/stories/1062406167>

FERC boosts N.Y. fossil fuel plants, hamstringing renewables

By Rod Kuckro

February 21, 2020

The Federal Energy Regulatory Commission yesterday, for the second time in three months, altered the rules in a major power market to make it easier for fossil fuel power plants to stay in business in the face of competition from cheaper clean energy.

In a series of 2-1 votes, FERC issued four orders affecting how the New York Independent System Operator can conduct auctions for electric generating capacity several years out.

One order guarantees that fossil fuel generating resources needed for short-term reliability and fossil capacity resources with repowering agreements may bid at low price levels into the New York power market.

The other three orders effectively raise the cost for renewables, demand response and energy storage to compete in the capacity market by imposing "Buyer-Side Mitigation" measures on those technologies.

Those technologies are effectively subsidized in New York because of policies to move away from fossil fuels and swap polluting generation for clean energy.

The ISO is considering putting a price on carbon emissions in the power sector. That move is meant to complement the aggressive climate policies enacted by the Legislature and signed by Gov. Andrew Cuomo (D) last summer.

That law requires New York to reach net-zero greenhouse gas emissions across the state's economy by 2050.

Chairman Neil Chatterjee (R) described FERC's actions as "narrow" and intended to "broaden the market's protections against price distortions."

He was joined by Commissioner Bernard McNamee, also a Republican, in approving the new rules.

Commissioner Richard Glick, a Democrat, dissented on all four orders, saying: "I'm very disappointed we've gotten to this place, and I'm saddened about what that says about this agency. This is an agency that used to be known for nonpartisanship and compromise. But it is what it is.

"It's kind of comical to suggest that what we're doing here in New York has anything to do with buyer-side market power. Most of the resources affected by today's order aren't even buyers," Glick said.

The newly imposed FERC mitigation regime will "make renewables, demand response and energy storage less likely to clear in the market," Glick added.

The action by the independent agency was feared by clean energy advocates following the commission's December decision to approve similar market rule changes across PJM Interconnection's footprint in Mid-Atlantic and Midwestern states ([Energywire](#), Feb. 20).

"This wrongheaded decision is going to lead to years of litigation," said Cullen Howe, senior renewable energy advocate at the Natural Resources Defense Council.

Senate Minority Leader Chuck Schumer (D-N.Y.) criticized the decision and accused FERC of undermining New York's climate goals. Schumer warned Chatterjee in a letter this week against infringing on the state's ability to boost its clean energy resources and pursue climate action.

"Yesterday, I called on FERC not to undermine New York's climate and clean energy goals. But FERC has become a wholly-owned GOP subsidiary, doing the bidding of the biggest polluters," Schumer [tweeted](#). "Democrats will not stop fighting to seriously tackle the climate crisis."

'One big mess'

Chatterjee downplayed the impacts of the market changes in PJM and New York, saying the "two market footprints and capacity constructs are very different."

"However, the underlying principles for both actions are similar. We are working to make sure that capacity markets provide accurate price signals to ensure adequate supply where it's needed," Chatterjee said.

Glick said the actions in New York and PJM echo similar rewriting of rules in the New England power market.

"I challenge anyone to find a common theme here, to find the commission's theory here, except that we want to raise prices for existing generators and stunt the development of new clean energy resources," Glick said.

"The fact is that we have created one big mess in the Eastern capacity markets, and I don't think my colleagues have a plan for getting us out of it," he said.

McNamee responded to Glick's desire for a uniform FERC rationale by arguing that "each independent system operator and each regional transmission organization is different. Our obligation is not to impose a [FERC] worldview on those different RTOs and ISOs," he said.

"My general view is we can't be wedded to the past and how things were always done," McNamee said.

Rich Dewey, president and CEO of the New York ISO, issued a measured statement, saying he is reviewing the orders for their implications and how the ISO should respond.

"Competitive electricity markets, which were originally designed to provide reliable service at the least cost, are now at an inflection point," Dewey said. "The wholesale markets must now accommodate state policies; not conflict with them."

He called for "balance" of FERC's obligation to ensure just and reasonable wholesale electricity rates with "New York's right to implement environmental and energy policies."

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Gothamist

https://gothamist.com/news/nys-plastic-bag-ban-tips?utm_source=WNYS+%2B+Gothamist&utm_campaign=c43f83066e-RSS_EMAIL_CAMPAIGN&utm_medium=email&utm_term=0_65dbec786b-c43f83066e-82376921&mc_cid=c43f83066e&mc_eid=1d0c4f1fef

NY's Plastic Bag Ban Begins March 1st. Here's Everything You Need To Know

By Sydney Pereira

February 20, 2020

In about a week, New York State will finally catch up to European countries as well as the states of California and Hawaii by drastically reducing single-use plastic bags.

Beginning March 1st, retailers statewide are prohibited from handing out single-use plastic bags, in accordance with the legislature's ban on the bags last year. New York is now among eight states that have banned plastic bags. In addition, some municipalities have opted for a 5-cent paper bag fee, including New York City.

In the weeks leading up to the ban, manufacturers have raised fears over a paper bag shortage, store owners have started selling plastic bags as reusable, and gripes that the ban will be more difficult for men have surfaced. A “Plan the Ban” rally at City Hall with a cohort of politicians and bodega and supermarket groups is planned for Thursday afternoon.

Environmental advocates remain critical of what they see as a loophole that could open the door for thicker types of plastic bags to become commonplace, specifically those with a thickness of 10 mil. (One mil is one-thousandth of an inch.) DEC has countered that bags of that level of thickness aren't currently manufactured for widespread use and it would be nonviable to do so, though advocates fear it could open the door for the industry to begin manufacturing the thicker bags.

On Monday, the Department of Environmental Conservation released its final list of regulations for the bag ban, removing some language that allowed for plastic bags on a case-by-case basis and other clarifications.

The law is aimed at reducing the estimated 23 billion plastic bags a year New Yorkers use, ending up in waterways and landfills, littering trees, and harming wildlife.

But the new law isn't simply an end to all plastic bags in the state; there are some exceptions—like for takeout food or if you're buying crickets from a pet store (seriously).

We've put together a guide for what you should know about the upcoming bag ban:

When does the law go into effect?

March 1st, but the Department of Environmental Conservation doesn't begin enforcement for a few more months.

How much are the fines for retailers?

Retailers who violate the law will get a warning for their first violation. After a warning, retailers get a \$250 fine. For violations after that in the same calendar year, penalties are \$500.

What places will no longer be allowed to provide plastic bags?

All store operators, mall operators, and manufacturers that collect state taxes. That includes grocery stores, clothing stores, bodegas, gas stations and others.

Is every single type of plastic bag banned?

No. There are a series of “exempt bags” that the DEC has detailed in its regulations to implement the law—like plastic bags for takeout food or prescriptions at the pharmacy.

Here’s a list of plastic bags that are exempt:

- Uncooked animal products or other non-prepackaged food
- Flowers, plants, or other items that require plastic to avoid contamination, prevent damage, or for health purposes
- Bulk packaging of fruits, vegetables, grains, candy, hardware products like nuts, bolts, and screws, live insects like crickets, fish, crustaceans, mollusks, or other items that require a waterproof bag
- Sliced food or food prepared to order
- Newspapers for subscribers
- Prepackaged plastic bags sold in bulk, such as garbage bags, sandwich bags, or bags used for pet poop pick-up
- Dry-cleaner or laundry service clothing bags
- Pharmacy bags for prescription drugs

Why are bags for prescriptions and take-out food exempt?

The DEC says the exemptions are for privacy and health reasons, respectively. It is also how the law itself was written.

What am I supposed to use instead of a plastic bag?

You could opt for the most sustainable option: a reusable bag.

The state has decided that reusable bags are either made of cloth or non-film plastic that are washable, with at least one strap that doesn’t stretch and can hold 22 pounds of weight with a minimum use of 125 times.

Merchants are required to offer reusable bags for purchase.

Can I get one for free?

The city’s Sanitation Department is giving out free reusable bags as a part of a massive campaign to remind New Yorkers to “BYOBag.”

Find an event in your neighborhood [here](#). Or [take the Zero Waste Pledge online](#) and the city will mail one to you.

I don’t want to use a reusable bag. Will there be paper bags?

Yes, but if you live in New York City, Suffolk County, or Tompkins County, you’ll pay a 5 cent fee per paper bag.

Those who use the Supplemental Nutrition Assistance Program, often known as food stamps, or the SNAP program for Women, Infants, and Children, are exempt from paying the fee.

What does the paper bag tax go towards?

The 5-cent fee is sent to the state’s Department of Taxation and Finance. Of all the fees collected, 40 percent is returned to the municipality, which is required to use the cash to purchase and give away reusable bags targeting low-income and fixed-income families. The rest of the 60 percent goes to the state’s [Environmental Protection Fund](#).

Patch

https://patch.com/new-york/parkslope/s/h0rin/nyc-isnt-ready-for-the-plastic-bag-ban-lawmakers-say?utm_term=article-slot-4&utm_source=newsletter-daily&utm_medium=email&utm_campaign=newsletter

NYC Isn't Ready For The Plastic Bag Ban, Lawmakers Say

By Kathleen Culliton

February 20, 2020



New York City isn't ready for the plastic bag ban, according to store owners demanding its delay.

New Yorkers don't have the supplies and information they need to transition into a plastic bagless city Monday and critics fear low-income communities and their small businesses will pay the cost.

"You hurt the small bodegas that are the heartbeat of New York," said Frank Garcia of the National Association of the Latino State Chambers. "They're not gonna survive."

Garcia, city council members Ydanis Rodriguez and Mark Gjonaj, and concerned store owners rallied on the steps of City Hall Thursday to demand the bag ban be delayed until stakeholders were better educated and plastic bag alternatives could be better sourced.

The statewide ban — which requires grocery stores, bodegas, liquor stores and other businesses to stop using plastic bags and charge customers 5 cents for paper bags — is an attempt to curb the production of more than 23 billion bags used and discarded in New York State every year.

A lone ban supporter arrived at City Hall bedecked in plastic bags to argue New York had ample time to prepare as Gov. Andrew Cuomo signed the bill on Earth Day roughly one year ago and New York City first passed a plastic bag statute in 2016.



"It's not a new idea," said Eric Goldstein, a senior attorney for the Natural Resources Defense Council, adding he understood store owners' concerns, but expected they would be addressed in months to come.

"There's every reason to believe the state will not be out on March 1 with enforcement agents," Goldstein said. "The whole focus of the state and the city's activities now are on educating the public."

But Gjonaj maintained owners of New York City's 13,000 bodegas should be educated on details before facing the possibility of a fine.

"They need and deserve answers before this ban is implemented and before the state tries to fine them violations that they don't even know exist," he said. "We need to stop the chaos and end this ban."

And Rodriguez worried that his lower income constituents will bare the brunt of enforcement because they lack the resources to comply with the ban.

"Look at the poor neighborhoods," said Rodriguez. "Look and see how many members who live in the upper class and middle class communities already have a reusable bag."

Nick D'Agostino, D'Agostino's and Gristedes Supermarkets, complained that store owners weren't given enough time to stock acceptable replacements in the face of a predicted 3 billion paper bag shortage in New York State.

"They didn't tell us what we had to buy," D'Agostino said. "They aren't giving us any chance."

Orlando Findlayter of the New Hope Christian Fellowship, stressed that critics did not question the environmental benefits of the plastic bag ban, they simply felt unprepared.

"While we support the law, but it's too soon," said Findlayter. "What are we gonna do, carry the groceries with our hands?"

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Lehigh Valley Live

<https://www.lehighvalleylive.com/news/2020/02/waste-management-seeks-rezoning-for-42m-expansion-of-slate-belt-landfill.html>

Waste Management seeks rezoning for \$42M expansion of Slate Belt landfill

By John Best

February 20, 2020 (updated)

Waste Management would like to expand its landfill operations by 81 acres. But there's one major hitch. The land is zoned for use as farm and forest.

Waste Management is asking Plainfield Township to rezone 211 acres adjacent to the Grand Central Sanitary Landfill in Plainfield Township. The application seeks to rezone the land for use as solid waste processing and disposal.

Waste Management has an agreement to purchase 325 acres from Slate Spring Farms LLC contingent on approval of the rezoning application. The property is on the east side of Pen Argyl Road, across the street from the current landfill.

The property borders Delabole Road to the southeast and Bocce Club Road to the north.

To access the proposed expansion area, trucks would still use the Route 512 driveway into the current landfill, according to Waste Management representative Adrienne Fors.

Trucks would drive through the existing landfill and then cross Pen Argyl Road to enter the expanded area.

Eighty-one acres would serve as new landfill area, 52 acres would be used for support activities and 192 acres of woods and wetlands would remain untouched by the expansion project.

The surrounding areas are marshes and would not be available for further expansion, Fors said.

Based on current inbound trash tonnage, the landfill has about eight more years of availability to accept trash, according to Fors.

The proposed "eastern expansion", which is projected to cost \$42 million to set up, would extend that by 20 years, she said.

Senior Area Engineering Manager Barry Sutch said the expansion also means two more decades of money coming into the surrounding municipalities.

"That means 20 years of benefits to the community, as well," Sutch said.

Pennsylvania's Act 101 of 1988 requires landfills to pay a minimum \$1 per ton host fee to municipalities where a landfill is located.

The site receives about 100 to 150 trucks per day with about 2,300 tons of trash per day, according to Fors.

Waste Management currently pays \$3.10 per ton to Plainfield Township based on a 2005 agreement. In the last 2 years, the company has paid the township about \$2 million each year, according to Waste Management spokesman John Hambrose.

Though not required by law, the company pays 40 cents per ton to nearby Wind Gap and \$1.30 per ton to Pen Argyl. Both boroughs receive free trash and recycling collection from Waste Management, which amounts to a value of about \$450,000 total for the boroughs, Hambrose said.

"The law says \$1 per ton is all that is required," Hambrose said. "This site goes far beyond that."

Fors said she estimates the expansion would generate \$101 million over 20 years for the three municipalities.

The rezoning application will be reviewed by the township planning commission, which will provide a recommendation to the board of supervisors. Supervisors will decide ultimately whether to rezone the area.

The Lehigh Valley Planning Commission will also review the application and the expansion would require Pennsylvania Department of Environmental Protection permits.

Find out more

Waste Management has scheduled three public information meetings to discuss the proposed project and answer questions.

Meetings are scheduled for 6 p.m. March 18 at the Plainfield Township Fire Hall; 1 p.m. March 19 at the Wind Gap Fire Social Hall; and 6 p.m. March 19 at Lookout Fire Company's new social hall in Pen Argyl.

Information about plan can be found at the site's Website at grandcentrallandfill.com and on the company's Facebook page.

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E&E News PM

<https://www.eenews.net/eenewspm/2020/02/20/stories/1062404171>

States sue EPA over ozone enforcement

By Sean Reilly

February 20, 2020

New Jersey is leading a fresh lawsuit against EPA for allegedly failing to follow the law in dealing with ozone-forming emissions that cross state lines.

"Enough is enough: this is a serious environmental and public health problem, and it demands a serious response from Washington," New Jersey Attorney General Gurbir Grewal (D) said in a news release announcing the legal challenge, filed yesterday in the U.S. District Court for the Southern District of New York.

The suit accuses EPA of foot-dragging in coming up with replacement plans to meet "good neighbor" obligations for the 2008 ozone standard of 75 parts per billion. Last October, the U.S. Court of Appeals for the District of Columbia Circuit threw out EPA's strategy for addressing those obligations as too weak ([Greenwire](#), Oct. 2, 2019). The court then issued its mandate the next month, "yet EPA has not announced any action," the suit says.

An EPA spokeswoman declined to comment today on pending litigation. Other plaintiffs in the suit are Connecticut, Delaware, Massachusetts, New York and New York City.

Ozone, the main ingredient in smog, is a lung irritant, formed by the reaction of nitrogen oxides and volatile organic compounds in sunlight.

All six plaintiffs are having problems meeting the 75 ppb limit; they blame pollution from coal-fired power plants outside their borders for at least some of their difficulties. The suit follows a similar challenge brought last week by five environmental groups ([Greenwire](#), Feb. 10).

EPA in 2015 tightened the ozone standard to 70 ppb. Enforcement of that threshold is in its early stages.

Buffalo News

<https://buffalonews.com/2020/02/20/brownfield-superfund-efforts-are-a-win-win-at-tonawanda-coke/>

Brownfield, Superfund efforts are win-win at Tonawanda Coke

By New Editorial Board

February 20, 2020

The state Department of Environmental Conservation made the right call on the Tonawanda Coke property. A private brownfield cleanup plus a parallel state Superfund remediation will get the toxin-filled land cleaned to the highest standard while restoring part of the property to be put back into productive use. That is a win-win.

The DEC this month announced a consent decree with Honeywell International, a former owner of the plant on River Road in the Town of Tonawanda. Officials said that Honeywell takes responsibility for contaminants at the Superfund site – three parcels of land on the 140-acre property. Honeywell will perform a full investigation and remediation, which the company will pay for.

Jon M. Williams owns the full property, which he purchased at auction last fall when Tonawanda Coke was liquidated. The DEC last week announced Williams' company, Riverview Innovation and Technology Campus, is approved for a brownfield cleanup on a separate portion of land, outside the Superfund area. Williams pays for that cleanup and can get reimbursed for a portion of the funds through brownfield tax credits.

A citizens' group that has done laudable work bringing Tonawanda Coke's environmental wrongdoing to light, Clean Air Coalition, opposed a brownfield cleanup for any part of the property, preferring a federal Superfund program. The coalition has expressed disdain for the fact that Williams will get a tax incentive as part of the state Brownfield Cleanup Program. The tax credits, for which the developer may apply only after the DEC gives him a certificate saying the cleanup is completed, exist as an incentive for developers to fund remediation of polluted sites. Williams must fund the entire cleanup process himself; the tax credits will help him recoup some of the costs.

As with incentives granted to developers for adaptive reuse of old buildings, the tax credits have their critics, but they result in projects to transform properties that otherwise may never happen.

The federal Superfund program runs through the Environmental Protection Agency. President Trump this month proposed slashing the Superfund program, and cutting 26% out of the EPA's budget. That was one factor in the DEC's decision to make use of the state Superfund for Tonawanda Coke.

DEC officials and Williams say the brownfield project and Superfund cleanup will work side by side, with the same regulations and enforcement efforts.

Williams has worked with Honeywell before on remediation projects, transforming the former Buffalo Color property into a sports complex and a one-time battery plant in Niagara Falls into a plastics manufacturing factory and a town park.

Honeywell released a statement saying it will work in cooperation with Williams. Investigations on the properties will be done at the same time and "data collected for both programs will be used by DEC and both parties," the company said.

We have said in this space before that the brownfield cleanup makes sense. Brownfield projects generally have faster turnaround times and produce similar results. A Honeywell executive told The News last year that the site could be cleaned up and reoccupied within five years under the brownfield program.

Part of the DEC's job is to account for both environmental protections and economic concerns. Williams wants to develop the brownfields site into a campus for computer data centers. The town will benefit when a new business joins the tax rolls and begins populating its payroll.

The brownfield program oversaw the cleanup of 128 acres of the General Motors Components plant in Lockport, completed in 2016, and 31 acres once occupied by Donner Hanna Coke and Republic Steel, turning both into productive use for manufacturing.

There are no free passes being handed out. Both the DEC and the EPA will remain involved, ensuring a site that is cleaned and ready to be repurposed. The sooner the better.

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Newsday

<https://www.newsday.com/news/region-state/cuomo-grumman-plume-1.41984788>

Grumman plume handling called 'outrageous,' 'shameful'

By Yancey Roy

February 20, 2020

Gov. Andrew M. Cuomo and other top New York officials on Wednesday criticized aerospace giant Grumman and the U.S. Navy for keeping information secret and dragging out the cleanup of an underground contaminated plume that's been spreading for more than 50 years.

Cuomo cited a Newsday investigation in saying that he would continue to push for full containment of the so-called Grumman plume, a channel of chemical contamination that began decades ago below a Navy-Grumman site in Bethpage and has stretched to become 4.3 miles long, 2.1 miles wide and up to 900 feet deep.

"It's outrageous that for decades the U.S. Navy and Northrup Grumman slow-walked the cleanup of the Navy-Grumman plume, even though they knew its toxic chemicals were contaminating water and potentially endangering residents," Cuomo said in a statement after Newsday published *The Grumman Plume: Decades of Deceit*. Northrop Grumman is Grumman's successor.

Federal officials echoed the governor.

"Newsday's investigation exposes the concerning details of a long-standing, systemic failure to protect drinking water for residents on Long Island," Rep. Kathleen Rice (D-Garden City) said. "It is shameful that the extent of this problem was swept under the rug by Grumman executives and government officials for so long."

Rep. Tom Suozzi (D-Glen Cove) said it was time to stop dawdling.

"It is time for the Navy and Grumman to each write big checks and turn this long-overdue cleanup over to the NYS DEC and the Bethpage Water District," Suozzi said, referring to the state Department of Environmental Conservation. "No more wasting time and money on lawyers and engineers; let's get this done already."

In the report, Newsday found Grumman, as far back as the mid-1970s, knew its toxic chemicals were contaminating local groundwater and the company buried information that could have prompted a timely cleanup.

Documents examined by Newsday revealed warnings that the plume was spreading farther and in directions different from first projected, false statements from officials blaming the pollution on a nearby manufacturer and a confidential memo from 1989 that declared Grumman's unequivocal responsibility for contamination that reached drinking water wells.

U.S. Sen. Chuck Schumer said the water supply for more than 200,000 people "could be poisoned."

"What they talk about at Grumman is just appalling," the senator, at an unrelated event in Alberston, said in reference to the Newsday investigation. "We always suspected that what they were saying about the source of the pollution and the toxicity was" disingenuous "and this sort of confirms it."

Nassau County and the U.S. Geological Survey identified the contamination as a plume in 1986 — it has doubled in size since, and is moving at a pace of a foot per day toward Great South Bay.

The plume is now classified as a hazardous waste site under the Superfund program and considered one of the most complex in the nation. Although it contains more than 20 contaminants, the most significant is the metal degreaser trichloroethylene, or TCE, which has found its way into local drinking water.

Grumman once employed 20,000 at its Long Island site, known for building World War II fighter planes and the lunar module.

Combined, Northrop Grumman and the Navy say they have spent more than \$300 million on the cleanup. But last fall, over the objections of those two entities, the Cuomo administration announced it would move forward with what it called a \$585 million comprehensive remediation plan. The plan includes using wells to pump and treat millions of gallons of water per day.

In his statement Wednesday, the governor reassert his commitment to the cleanup.

"Jobs and industry are obviously critically important, but we cannot sacrifice the health of our communities," Cuomo said. "This administration does not sit idly by and that's why we initiated the full containment of the plume and we will work until the job is done. We will continue to prioritize actions across the state to hold U.S. Navy, Northrup Grumman and other polluters accountable and ensure the safe and protective cleanup of our industrial past."

Northrop Grumman has defended its disposal practices as legal at the time. In a statement provided in response to the Newsday report, spokesman Tim Paynter said the company has worked closely with federal and state agencies "to develop and implement scientifically sound remediation strategies that protect human health and environment."

The company noted it has installed five containment wells along the southern boundary of the former 600-acre parcel and has extracted 18,000 gallons of contaminated groundwater over the last two decades.

Said Paynter: "Northrop Grumman remains committed to working with all stakeholders to provide for fact-based, scientifically-sound remediation efforts that advance the cleanup and help protect the community without unnecessary disruption and potential harm."

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NORLITE PFOA LAWSUIT NEWS

Times-Union

PFAS Incineration at the Norlite Facility in Cohoes/Colonie

By John T. McDonald III, Member of the New York State Assembly

February 23, 2020

Recently a lawsuit was filed by environmental advocacy groups against the U.S. Department of Defense (DOD) and other entities based on the incineration of firefighting foam containing perfluoroalkyl and polyfluoroalkyl (PFAS) chemicals at the Norlite facility in Cohoes. The DOD has a contract with Norlite to dispose of these materials. A lack of environmental prior to the incineration activity to ensure that public health and safety has been adequately protected has come into question.

I joined with Sen Neil Breslin, Assemblymember Phil Steck and Assembly Member Pat Fahy in sending a letter to the New York State Department of Environmental Conservation to request a review of the situation to determine whether further action is needed.

The letter sent to the New York State Department of Environmental Conservation can be read in full [here](#).

I personally am very familiar with Norlite as I have served Cohoes for over 21 years and am familiar with their operation. In the past there have been challenges and we were always able to work through the challenges, maybe not to everyone's delight but working through the process that is established by the EPA and DEC.

This issue is a little bit more concerning first of all because of the substance involved – PFAS. We know from our neighbors in Hoosick Falls the concerns of these chemicals and therefore our concerns are real and immediate. PFAS is not proven by the EPA to be safe to burn and it is bothersome to me that the Department of Defense awarded a contract to incinerate PFAS when the EPA has not made any conclusive decisions.

Therefore we have many questions. Mayor Keeler of Cohoes has been significantly engaged and has alerted not only state officials but also federal officials and surrounding community leaders. We will be meeting with leadership of Norlite this week I hope and many questions that have not been asked will be asked and I trust answered.

Stay tuned as more information will be coming and I will be sharing some additional steps to be taken to protect the community while this issue is being reviewed.

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WAMC

[DEC Investigating Norlite Facility](#)

By Lucas Willard

February 21, 2020

After a federal lawsuit this week claimed that PFAS-based substances were incinerated at the Norlite facility in Cohoes, the New York state Department of Environmental Conservation says it is investigating.

DEC spokesman Sean Mahar said the state agency is reviewing all permitting and regulatory requirements to ensure the facility can store and process Department of Defense firefighting foam.

“And to further this oversight, we are working with EPA’s office of research and development and the facility to design and implement a stack test prior to this material being further processed at the facility. This stack testing, which is analyzing what comes out of the smokestacks that are there, will provide important information regarding this potential disposal method for these compounds and whether or not incineration can be effectively used to destroy these compounds.”

Mahar said DEC will continue “aggressive oversight” of the facility and that the agency is committed to ensuring the Capital Region community has “full understanding” of the issue.

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Times-Union

https://www.timesunion.com/business/article/Norlite-plant-in-Cohoes-burned-PFOA-for-Defense-15070794.php?utm_source=newsletter&utm_medium=email&utm_campaign=Timesunion_DailyBrief&stn=nf

Activists file lawsuit over Cohoes Norlite plant burning, storing PFOA for Defense Department

By Larry Rulison

February 20, 2020 (updated)



Environmental groups are suing to stop the burning of the highly toxic chemical compounds PFOA and PFOS at the Norlite incineration plant in Cohoes.

The chemicals have been burned at the plant under a 2019 U.S. Department of Defense contract to incinerate firefighting foam containing PFOA and PFOS that have been stored at military installations throughout the northeast, and are now being disposed of due to the health risks.

PFOA and PFOS are so-called perfluoroalkyl and polyfluoroalkyl substances that have been known to cause serious health effects in people exposed to the chemicals through their water supplies. The DOD has been trying to burn the substances lately instead of storing them on military bases.

The regional contract was awarded to a company called Tradebe that owns the Norlite plant, which burns hazardous waste in a kiln for fuel to manufacture the construction materials it makes from a nearby quarry.

"The Norlite kiln also has a long history of environmental violations, resulting in fines and enforcement actions by the New York State Department of Environmental Conservation," the plaintiffs, including the Sierra Club, wrote in a lawsuit filed Thursday in federal court in California. "The kiln is also located next to a public housing complex (the Saratoga Sites apartments on Cohoes Road), whose residents are exposed to emissions from the kiln.

Officials with Tradebe could not immediately be reached for comment.

The Sierra Club and other plaintiffs held a conference call Thursday to discuss the lawsuit. They allege Norlite has burned the firefighting foam and stored it in Cohoes, but is currently not burning it now as it upgrades the kiln's scrubbers.

There have been 40 DOD shipments of the foam to Norlite in Cohoes from Feb. 7, 2019 until Sept. 6, 2019, according to those who held Thursday's conference call, although it is unconfirmed how much of that has been burned in Cohoes so far.

Judith Enck, the former regional administrator for the Environmental Protection Agency, said during the press call that Norlite did not alert the state or local governments about the burning plan.

"Norlite has to come clean and inform the public of what they are doing and what they plan to do," Enck said. "How can this happen without a comprehensive environmental review?"

Enck and others said the worry is that the toxic chemicals will be deposited into the Troy water reservoir that serves large parts of the region and is supposed to serve Hoosick Falls, which has been struggling with its own PFOA contamination crisis and is seeking a new water supply.

The EPA says PFOA and PFOS cause "adverse health effects" when it is in water supplies, including cancer, liver damage and thyroid effects, although there is less research on the impact when it is inhaled or touches the

skin. Enck, however, said people who live near the plant should be concerned about inhaling the emissions since PFOA and PFOS don't break down during burning.

"These chemicals resist incineration and do not break down under temperatures and conditions that are sufficient to destroy other chemicals," Enck said. "Those properties are precisely why (they) are widely used as a fire suppressant. Incomplete incineration may result in (emissions of) other toxic chemicals like hydrogen fluoride, which is poisonous, corrosive and flammable."

Enck said that Tradebe has a five-year, \$2.2 million contract with the Defense Department to burn the firefighting foam, although she said that contract may include other sites beyond the Cohoes plant.

"Norlite makes a lot of money accepting this toxic material to be burned," Enck said. "But money is not the only thing that matters. Norlite must publicly disclose what they have been doing in Cohoes and publicly pledge that they will not burn any more (PFOA and PFOS) at their incinerator. It is most unfortunate that they have already burned this material in Cohoes especially without telling anyone. We cannot accept this toxic material being burned at Norlite for the next five years."

Enck is calling on the Cuomo administration to ban the burning of PFOA and PFOS, which she said causes cancer and fertility problems.

Assemblyman John McDonald III, who represents Cohoes, called the issues raised by the lawsuit "concerning" and he wants an immediate response by the state Department of Environmental Conservation to investigate.

"The fact that the Department of Defense awarded a contract for this method of disposal in the absence of validation in regards to public safety or health by the EPA is even more troubling," McDonald said. "There are many unknowns with this method of disposal."

DEC spokeswoman Erica Ringewald issued a statement Thursday that said the agency "is committed to robust oversight of operations" at the Norlite facility.

Currently, she explained that DEC is working with EPA's Office of Research and Development and Norlite to design and implement a stack test that would provide important information about "whether or not incineration can be effectively used to destroy these compounds."

Cohoes Mayor Bill Keeler says he has also scheduled meetings with officials from Tradebe, the owner of the Norlite facility, for next Tuesday. He has also reached out to state and federal elected officials for support.

"I am working to determine whether all necessary steps are being taken to protect the health and safety of our residents in the vicinity, and of our first responders should they be called to the Norlite facility," Keeler said in a statement. "My utmost concern is for the immediate and long-term health and safety of the people of Cohoes and the surrounding area potentially affected. These are very important questions for which we need very clear answers. No incineration of firefighting foam... should be permitted at the Norlite facility until we are absolutely certain that there is no danger to the public or the environment."

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PUERTO RICO EARTHQUAKE NEWS

El Nuevo Dia (via Google Translate)

<https://translate.google.com/translate?hl=en&sl=es&u=https://www.elnuevodia.com/noticias/eeuu/nota/bencars-onsuscribelacuerdodesubvencionparalosproximos8200millonesenfondoscdbg-dr-2548294/&prev=search>

Ben Carson signs the grant agreement for the next \$ 8.2 billion in CDBG-DR funds

It is expected that a portion of these funds will be available soon

By Jose A Delgado

February 21, 2020

The Secretary of the Federal Department of Housing (HUD), Ben Carson , signed today, Friday, the grant agreement for the next \$ 8.221 million in community development program disaster relief funds (CDBG-DR) that Puerto Rico can receive , in order to address the damage caused by Hurricane Maria .

A HUD spokesman announced the signing of the agreement, which will allow the Island government to immediately access \$ 1.7 billion.

"Now that the grant agreement is fully executed (concessionaire's signature plus HUD's signature), the concessionaire can begin to immediately commit the funds," said the HUD spokesman.

Governor Wanda Vázquez Garced had accepted and signed the agreement since last February 3, which includes new restrictions and controls.

The \$ 1,700 million that will be made available to the government of Puerto Rico will be added to the \$ 1,507 million that the government of Puerto Rico has been able to disburse for a year, but of which it had only used, according to HUD, only \$ 15.2 million, up to last January 31.

Carson announced on January 16 that he would send the grant agreement to the government of Puerto Rico after appointing attorney Robert Couch as a federal financial monitor and imposing new controls for both that \$ 8.221 million and another \$ 8.285 million that will be allocated to mitigation projects and They still require an action plan.

President Donald Trump also appointed Rear Admiral Peter Brown a few days ago as his special representative for the reconstruction of Puerto Rico.

"Now that there are adequate financial controls, the implementation of the second phase of the Puerto Rico disaster recovery program can move forward with an extension of its credit line. Additional supervision was needed before we could proceed with the confidence that these critical disaster recovery funds will reach those who need them most," Carson said on January 16.

Two years and five months after Hurricane Maria, the government of Puerto Rico has received only \$ 1.507 million of the nearly \$ 20.5 billion in CDBG-DR funds promised to them.

The new restrictions on the use of CDBG-DR funds include that the Fiscal Oversight Board (JSF) that controls public finances the Island approves the projects.

It also requires that the government of Puerto Rico demonstrate that it meets the objectives towards the reform of the property registry, do not use at least \$ 16.5 billion for anything related to improvements to the power grid and cast aside the executive order that requires paying \$ 15 an hour to reconstruction workers financed with federal funds.

A few days ago, 11 federal Democratic legislators, headed by Senator Elizabeth Warren (Massachusetts), requested a formal investigation to determine whether President Donald Trump, as happened with the case of Ukraine that generated the political trial against him, violated the law that prohibits the confiscation of assignments made by Congress by stopping emergency funds to Puerto Rico.

Lawmakers asked the Federal Department of Housing (HUD) Inspector General to examine whether in the case of Puerto Rico, the Trump administration has also violated US law by delaying the delivery of community development program funds to address disasters (CDBG-DR).

Democratic congresswoman Nydia Velázquez (New York) is also pending an investigation that requested the HUD Inspector General to stop those funds.

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NATIONAL

The Hill: EPA will regulate 'forever chemicals' in drinking water

<https://thehill.com/policy/energy-environment/483972-epa-will-regulate-forever-chemicals-in-drinking-water>

BY [REBECCA BEITSCH](#) - 02/20/20 06:11 PM EST [69](#)

The Environmental Protection Agency (EPA) on Thursday announced it would regulate “forever chemicals” that have been leaching into the water supply in cities across the country.

The announcement kicks off a lengthy process to regulate a class of chemicals known as PFAS, which are known for their persistence in both the environment and the human body. The substance has been linked to cancer and other ailments.

The decision was welcome news to environmentalists, who often argue the Trump administration EPA has earned a reputation for rolling back environmental regulations rather than bolstering them.

“Under [President Trump](#)’s leadership, EPA is following through on its commitment in the Action Plan to evaluate PFOA and PFOS,” EPA Administrator [Andrew Wheeler](#) said in a statement, referring to the two forms of PFAS that would be regulated under Thursday’s action.

The EPA had [promised to decide](#) whether or not to regulate PFAS by the end of last year, earning [a rebuke](#) from Sen. [Tom Carper](#) (D-Del.) as the anniversary of the agency’s PFAS Action Plan came and went.

EPA currently recommends water contain no more than 70 parts per trillion (ppt) of PFAS, but it’s not mandatory, and many health advocates argue that number is too high. In the absence of EPA action, a number of states have passed laws requiring lower levels of PFAS for drinking water.

“Today’s decision shows that an avalanche of public pressure and overwhelming science is finally forcing EPA to act,” Melanie Benesh with the Environmental Working Group said in a statement.

EPA’s decision to regulate PFAS kicks off a two-year period for the agency to determine what the new mandatory maximum contamination level should be. Once that is formally proposed, the agency has another 18 months to finalize its drinking water requirement.

“We’re not going to be seeing a drinking water standard for at least four more years,” said Betsy Southerland, who helped set the voluntary 70 ppt standard while working as the director of the Office of Science and Technology at the EPA’s Office of Water under the Obama administration.

PFAS contamination has been found in every state but Hawaii, according to [data collected](#) by the Environmental Working group, with cities in Michigan and New Jersey, where some PFAS substances were manufactured, being hit particularly hard.

However, there are many municipalities with no contamination — something Southerland worried would limit EPA’s appetite to set a national standard.

“There are all these small systems in the country and if it looks like there is low likelihood that all these small systems have this contamination you don’t want to impose the cost of even the monitoring technology on them,” she said.

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Bloomberg Environment: EPA Moves Closer to Regulating PFAS in Drinking Water

<https://news.bloombergenvironment.com/environment-and-energy/epa-moves-closer-to-regulating-pfas-in-drinking-water>

Feb. 20, 2020, 6:50 PM

Listen

- Agency initial determination points to eventual limits to PFOS and PFOA
- Agency accepting comment on other chemicals in same class

The EPA has made an initial determination that it will eventually set legal limits for levels of two key PFAS chemicals in drinking water, the agency announced Thursday.

Under the Safe Drinking Water Act, the “[preliminary regulatory determination](#)” announced Thursday is the last step before the Environmental Protection Agency proposes limits on the releases of the two chemicals in drinking water and groundwater supplies. That announcement could still be months away.

The chemicals at issue are perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), two of many within the class of chemicals called PFAS, or per- and polyfluoroalkyl substances. Scientists have linked PFAS chemicals—common in nonstick coatings and firefighting foam—to health problems including higher cholesterol, birth defects, and cancer.

EPA’s announcement Thursday, if eventually finalized, would set limits for the first time for PFAS chemicals that would apply to all water utilities across the country. The announcement comes as states have moved to regulate PFAS, many complaining of federal inaction.

The agency will accept comment for 60 days after its preliminary finding is published, and on its decision to consider regulation of other drinking water contaminants that fall under the same class of chemicals.

‘Avalanche’ of Pressure

“Aggressively addressing Per and Polyfluoroalkyl (PFAS) is an ongoing and high priority effort for EPA,” the agency said in a news release Thursday.

But Melanie Benesh, a legislative attorney with the nonprofit Environmental Working Group, linked the agency’s preliminary decision to pressure from Congress and “an avalanche of public pressure and overwhelming science.”

“The Environmental Protection Agency has wasted decades deciding whether to regulate PFAS—and they could take many more years before a drinking water standard is finalized,” Benesh said Thursday. “It will be years—if ever—before a final drinking water standard for PFOA and PFOS is set.”

PFOA and PFOS have seeped into groundwater aquifers in many areas and are very difficult to remove. Congress has been pressing the EPA to lessen the public’s exposure to this family of chemicals.

Since early 2019, the EPA has been considering whether to set drinking water limits for PFAS, as part of an action plan that also includes new drinking water detection methods. The EPA set nonbinding health advisories of 70 part per trillion for these two chemicals, but some states have set drinking water limits that are at least five times lower.

Further Regulation

In addition to proposing to regulate PFOA and PFOS, the EPA is asking for data and information including monitoring approaches to decide whether regulation is appropriate for other chemicals in the PFAS family.

The EPA had listed PFOA and PFAS along with six other chemicals on its fourth Contaminant Candidate List, which was released in November 2016. However, the agency said it's also seeking comment on its decision against regulating six other toxic chemicals, which are: 1,1-dichloroethane, acetochlor, methyl bromide, metolachlor, nitrobenzene, and RDX.

The list includes contaminants that are currently not subject to any federal drinking water standards, but are known or anticipated to occur in public water systems.

3M Co. and DuPont originally developed and produced PFAS in the 1940s. Hundreds of companies, including Wolverine World Wide, Inc. and W. L. Gore & Associates, Inc., have used the chemicals made with the particular PFAS that 3M, DuPont, and Chemours, a DuPont spinoff, have produced to make thousands of products such as semiconductors, sticky notes, and shoes.

The original PFAS manufacturers, Chemours, and some other companies using the chemicals are the subject of several major PFAS-related lawsuits.

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WHNT (Huntsville, AL) - The EPA is planning to monitor PFAS in drinking water

<https://whnt.com/news/the-epa-is-planning-to-monitor-pfas-in-drinking-water/>

[NEWS](#)

Posted: Feb 20, 2020 / 05:28 PM CST / Updated: Feb 20, 2020 / 05:28 PM CST

WASHINGTON, D.C. – The U.S. Environmental Protection Agency said Thursday it plans to start monitoring levels of two chemicals in drinking water.

The agency proposed regulatory determinations for perfluorooctanesulfonic acid and perfluorooctanoic acid in drinking water – two chemicals that have been found in drinking water in North Alabama.

Last year chemical company 3M, which has a plant on the Tennessee River in Decatur and made the chemicals here for decades, [agreed to pay](#) the West Morgan-East Lawrence Water Authority \$35 million in a settlement. The water authority reported in 2016 that PFOA and PFOS levels in its drinking water supply from the river were at levels the government considered unhealthy.

Saying it is now aggressively addressing those chemicals in the drinking water, the EPA has included them in its latest Contaminant Candidate List. PFOA and PFOS are two of eight chemicals proposed for regulation, and they are the only two the agency is actually recommending for regulation.

The EPA has previously said studies have linked PFAS chemicals – PFOA and PFOS – to health problems like some cancers, thyroid issues, and low birth weight.

The EPA will seek comment on the proposed regulations for 60 days.

3M said recently it plans to assist communities in the cleanup of the chemicals. The company also called on the EPA to establish regulatory standards for PFAS.

“We are part of the solution to ensuring communities have confidence in their water. This includes addressing contamination of sites where we were produced or disposed of PFAS,” 3M CEO Mike Roman said during a company earnings call in January.

In that same January call Roman also announced the company is facing a new potential problem — a federal grand jury.

“In connection with our Decatur disclosures 3M received a grand jury subpoena from the U.S. Attorney’s office for the Northern District of Alabama in late December 2019,” Roman said.

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Inside EPA: EPA finalizes ‘low priority’ designations for 20 TSCA chemicals|

<https://insideepa.com/daily-feed/epa-finalizes-%E2%80%99low-priority%E2%80%99-designations-20-tsc-chemicals>

February 20, 2020

EPA has finalized its designations of 20 “existing” chemicals as “low priority” for risk evaluations under EPA’s Toxic Substances Control Act (TSCA) program, likely exempting the chemicals from future EPA assessment and regulation, though the final measure could face litigation from environmentalists who criticized the proposed list.

“A final designation as ‘low-priority’ means that risk evaluations are not warranted at this time,” according to EPA’s Feb. 20 statement. “Today’s action is the result of a rigorous, transparent, and scientifically sound process to ensure chemicals in commerce do not pose unreasonable risks. This final list of low-priority chemicals will allow EPA to focus its risk evaluation efforts on the chemicals that could significantly impact public health and the environment.”

Finalizing the [low-priority chemicals list](#) checks off another item on the lengthy list of regulatory deadlines Congress set for EPA when it reformed the original 1976 TSCA in 2016.

TSCA section 6(b)(2)(B) gives the agency a December 2019 deadline to name “at least 20 chemical substances ... as low priority substances.”

The statute defines a low priority chemical substance as one that “does not meet the standard” of a high priority substance, which “may present an unreasonable risk to health or the environment.”

The 20 chemicals that EPA has finalized as low priority are the same as those EPA proposed last August. All were selected from a list of roughly 1,000 chemicals curated by EPA’s Safer Choice program, a voluntary program that evaluates cleaners and other products to determine if the chemicals contained meet its “green” standard.

EPA explained last August [in its proposal](#) to list the 20 chemicals as low priority that the designation follows a screening review, as required by TSCA section 6(b)(1)(A). The agency says it generally used “reasonably available information” to screen the candidate chemical substances against the criteria and considerations as laid out in the statute and implementing regulations, including the chemical’s hazard and exposure potential; ability to persist and bioaccumulate; its conditions of use, among other factors.

Speaking Feb. 6 at the American Law Institute-Continuing Legal Education’s annual environmental law conference, EPA toxics chief Alex Dunn referenced the then-ongoing effort to “soon” finalize the 20 chemicals the agency has deemed low priority for evaluation.

Dunn noted that the low priority evaluation status is a final agency action, meaning it can be subject to legal challenge. [“We feel confident”](#) in the decisions “but we have to document” the analyses and rationale, Dunn said, explaining why EPA had not yet finalized its decisions.

But the agency's efforts may face a test as environmentalists warned they may sue. In [comments](#) submitted last year, Natural Resources Defense Council (NRDC), Safer Chemicals Healthy Families and Earthjustice charged that "EPA's proposal does not contain sufficient data to establish that the 20 chemicals lack unreasonable risks to health or the environment, including to potentially exposed and susceptible subpopulations, and its prioritization methodology systematically ignores or understates evidence that raises concern about those chemicals' adverse effects."

NRDC attorney Daniel Rosenberg noted in a [blog post](#) last fall that the comments "spell out dozens of major scientific and legal problems with EPA's analysis of its proposed 'low priority' chemicals," Rosenberg writes. "Once finalized, those low priority designations will be subject to judicial review under TSCA."

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Associated Press: EPA will regulate two toxic chemicals in drinking water

By Michael Casey | AP

Feb. 20, 2020 at 8:14 p.m. EST

CONCORD, N.H. — The Environmental Protection Agency announced Thursday that it plans to regulate two nonstick and stain-resistant compounds in the drinking water amid growing concerns the chemicals found in everything from pizza boxes to carpet pose a health hazard.

The agency is targeting a class of chemicals known as perfluoroalkyl and polyfluoroalkyl substances, or PFAS. It will regulate the compounds, PFOA and PFOS, which are among the oldest chemicals in this class and have been phased out in the United States. It also plans to research whether other PFAS chemicals will be added to the list.

Until now, the agency has come under fire from environmentalists for only setting a nonbinding health threshold of 70 parts per trillion for PFOA and PFOS in drinking water. Several states have responded by setting their own PFAS limits for drinking water that are far tougher than the federal guidance.

"The U.S. leads the world in providing access to safe drinking water for its citizens, thanks in part to EPA's implementation of the Safe Drinking Water Act," Acting EPA Administrator Andrew Wheeler said in a statement. "Under President Trump's leadership, EPA is following through on its commitment in the Action Plan to evaluate PFOA and PFOS under this Act."

The move comes as the chemicals are increasingly turning up in public drinking water systems, private wells, sludge from wastewater treatment plants and even food. Military installations that use PFAS-laden firefighting foam and businesses that work with PFAS are two big sources of water contamination.

Known as "forever chemicals" because they persist in the environment, the compounds have also been linked to a growing list of health problems.

Federal studies of people heavily exposed to the compounds have found links between high blood levels of older kinds of PFAS and a range of health problems, including liver issues, low birth weights, and testicular and kidney cancer.

Environmentalists welcomed the move but argued it should have come much sooner.

"It's decades too late but it's better late than never," Scott Faber, Environmental Working Group's senior vice president for government affairs, said in a statement. "It could still take years — if ever — for EPA to issue a final standard. But it's a step in the right the direction, and it would not have happened but for a bipartisan sense of outrage."

Mindi Messmer, co-founder of the New Hampshire Safe Water Alliance, which pushed for tough PFAS drinking water standards in the state, said the EPA announcement falls far short of what is needed to protect public health.

“EPA needs to move quickly to prevent chronic disease by halting the use of the entire class of these industrial toxins until they are proven safe,” Messmer said in a statement. “Every single day, these chemicals continue to contaminate the air and water ... EPA needs to reevaluate the science, not the politics or corporate interests, to move expeditiously to protect public health.”

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Politico: EPA proposes regulating 2 PFAS chemicals in drinking water

BY [ANNIE SNIDER](#)|02/20/2020 05:37 PM EST

EPA took the first step on Thursday toward setting a federal limit for two "forever chemicals" in drinking water.

The [proposed](#) "regulatory determination" unveiled by the agency today is the initial step in a yearslong process of setting a mandatory drinking water limit for the chemicals PFOA and PFOS. It comes as many states, frustrated with EPA's slow pace, have begun work to enact their own drinking water limits for those two substances and sometimes others in the same chemical family.

“The U.S. leads the world in providing access to safe drinking water for its citizens, thanks in part to EPA’s implementation of the Safe Drinking Water Act,” EPA Administrator Andrew Wheeler said in a statement. Wheeler last year promised to issue the determination as he sought Senate confirmation for his post.

Under the Safe Drinking Water Act, EPA must first propose and finalize a rule determining that a chemical warrants a drinking water limit before it can propose and finalize an actual limit. Today's move is the first step in the process. EPA has not issued a final drinking water limit for any new chemical since the federal water law was significantly reformed in 1996.

As part of the same action today, EPA proposed not to regulate six other chemicals in drinking water: 1,1-dichloroethane, acetochlor, methyl bromide, metolachlor, nitrobenzene and RDX.

Separately, EPA also issued a [proposal for limiting imports of products containing PFOA](#) and other similar substances, a regulation that has been in the works since 2015.

That proposal, under the Toxic Substances Control Act, blocks "significant new uses" of long-chain PFAS chemicals like PFOA that are used as surface coatings. This use of PFOA and similar chemicals has already been phased out in the U.S., and the agency said in a statement that it believes the same is true in imported goods. But it said the new proposal would ensure that EPA can review any new uses before products containing them can be imported.

EPA initially proposed the significant new use rule in 2015, prior to Congress' 2016 overhaul of the Toxic Substances Control Act. Today's proposal supplements that initial one.

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E&E News: Pa. gets EPA funding for stormwater projects

<https://www.eenews.net/greenwire/2020/02/20/stories/1062403015>

[Tamara Ward](#), E&E News reporter

Published: Thursday, February 20, 2020

EPA awarded \$2.4 million in grant funding to Pennsylvania for stream improvement projects slated to enhance waterways and protect water quality in the Chesapeake Bay watershed.

The financial allocations come just weeks after other watershed states threatened to sue the agency for failure to enforce Pennsylvania's pollutant reduction goals ([*Greenwire*](#), Jan. 9).

EPA allotted the funds for 14 water quality projects intended to reduce stormwater runoff pollution from agricultural, urban and suburban sources in the Keystone State, according to a Feb. 12 [news release](#).

The federal funds will be supplemented by \$3.4 million in local matching funds.

Another \$464,200 in grant funding was allotted to hire critical staff to provide technical assistance to landowners and conservation districts for the planning, design and installation of stream habitat improvement and bank stabilization structures, according to a Feb. 18 [release](#).

Both allotments come from unspent Chesapeake Bay implementation grants, known as unliquidated obligations (ULOs). EPA is encouraging others to apply for Chesapeake Bay ULOs from Pennsylvania agencies and commissions for projects that improve local water quality and to further nutrient and sediment reductions in the bay.

"This action ensures that our federal grant funds are applied in a timely manner to improve Pennsylvania streams and the Chesapeake Bay," EPA Region 3 Administrator Cosmo Servidio said in the release.

Harry Campbell, executive director of the Pennsylvania office of the Chesapeake Bay Foundation, said that the ULOs were not used for myriad reasons and that it makes sense to redirect the funds for shovel-ready projects with plans already in place, like the stormwater projects. He said it ensures "a higher level of assuredness and success."

Campbell also said that the ULOs are not enough and that the state "needs to increase that by tenfold to see magic happen and achieve our obligation for the Chesapeake Bay." He said that there is at least a \$324 million funding gap for Pennsylvania's bay efforts and that it points to decades of disinvestment by the General Assembly and state agencies.

Servidio defended the agency's work and reaffirmed EPA's commitment to ensure that all the watershed states uphold their end of the agreement ([*Greenwire*](#), Jan. 29).

Maryland Democratic Sen. Chris Van Hollen has been critical of EPA and Pennsylvania for its failing to meet targets ([*E&E Daily*](#), Jan. 9). He said he is pleased to see EPA using the resources available to it to assist Pennsylvania in improving its water quality.

He cautions that to improve the health of the bay, EPA and Pennsylvania must continue working together to implement a comprehensive plan to ensure it comes into compliance with the total maximum daily load pollution reduction targets.

"I will continue urging the EPA to use every tool available to make sure Pennsylvania is meeting its commitments under the Bay Agreement," Van Hollen said in an email to E&E News.

House Majority Leader Steny Hoyer (D), whose Maryland district is surrounded by the Chesapeake Bay, has continuously work to secure funds to clean up the bay. He, too, is pleased that EPA has awarded funding to Pennsylvania to combat pollution in the watershed.

In an email, Hoyer said, "It's critical that Pennsylvania take comparable steps to Maryland and Virginia to address pollution. I hope these funds will ensure progress is made to improve the health of our environment."

Last October, Hoyer joined Van Hollen and other members of Maryland's congressional delegation to meet with Maryland state officials and representatives from EPA to discuss steps needed by Pennsylvania to achieve targeted goals for 2025 (*Greenwire*, Oct. 23, 2019).

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Law 360: EPA Says 2 Chemicals Could Be Regulated In Drinking Water

<https://www.law360.com/articles/1246002/epa-says-2-chemicals-could-be-regulated-in-drinking-water>

By [Juan Carlos Rodriguez](#)

Law360 (February 20, 2020, 10:09 PM EST) -- The [U.S. Environmental Protection Agency](#) said Thursday it's moving toward setting a drinking water health standard for two common "forever chemicals," a step environmentalists immediately slammed as "too little, too late."

Coming on the heels of increasingly strict state regulation and calls from the public and lawmakers for national baseline standards, the EPA said it has preliminarily determined that setting a National Primary Drinking Water Regulation is appropriate for perfluorooctanoic acid, or PFOA, and perfluorooctanesulfonic acid, or PFOS.

The agency said in a pre-publication request for public comment that its decision was based on the results for three tests that must precede an NPDWR standard: whether the compounds pose a health risk, whether the exposure is systemic and whether there are meaningful ways to mitigate exposure.

According to the EPA, there are associations between PFOA exposure and high cholesterol, increased liver enzymes, decreased vaccination response, thyroid disorders, pregnancy-induced hypertension and preeclampsia, and testicular and kidney cancer.

The agency said research shows an association between PFOS and high serum cholesterol and decreases in female fertility, decreased birth weights in offspring and other measures of postnatal growth.

Right now, the EPA has established nonenforceable health advisories for PFOA and PFOS, which say that adverse health effects are not expected to occur over a lifetime of exposure to the chemicals at or below 70 parts per trillion.

Kyla Bennett, the director of the New England field office of Public Employees for Environmental Responsibility, called the EPA's notice about PFOA and PFOS "too little, too late." She said there is ample data to support a stringent standard, as evidenced by states like California that are setting their own levels lower than the EPA's health advisory.

"It's like everything else this EPA does. They're just kicking the can down the road, delaying, delaying, delaying because they don't want to take any action," Bennett said.

The EPA said if it moves ahead with a proposal for an actual drinking water standard, it will have to evaluate any new research that has been done since its last review in 2016. And it delivered its preliminary findings with a big caveat, repeatedly stating that this is the beginning of the regulatory process, not the end, and that there is another set of considerations that will have to be used to arrive at an NPDWR.

"The EPA may find at a later point in the regulatory development process, and based on additional or new information, that a contaminant does not meet the three statutory criteria for finalizing a NPDWR," the agency

said in the notice.

Steven Siros, a partner at [Jenner & Block LLP](#) and chair of the firm's environmental litigation practice, said the action marks an initial step in the regulatory process.

"They wouldn't even propose a standard within two years, and then they'll take another year or so to develop it, so we're probably at least two years out from having a standard in place," Siros said Thursday.

PFOA and PFOS are two of the most widely-studied and longest-used per- and polyfluoroalkyl substances, or PFASs, and are part of a subset of PFASs known as perfluorinated alkyl acids, or PFAAs, the EPA said in the notice. The chemicals are known as "forever chemicals" due to their longevity in the environment and in the human body.

If the EPA finalizes an NPDWR, it enforces that by either setting a maximum contaminant level or establishing treatment technique rules. The agency may only set treatment technique rules "if the agency determines it is not economically or technologically feasible to ascertain the level of the contaminant," according to the notice.

The EPA suggested in the notice that a maximum contaminant level for the two forever chemicals may not be in the cards.

"The EPA does not anticipate that reliable and validated methods that accurately and precisely capture all PFAS or total PFAS (and not other fluorinated, non-PFAS compounds) will be available for a number of years. Therefore, the agency is considering whether a treatment technique regulatory approach may be appropriate," the notice said.

Separately in the drinking water notice, the agency said it is not moving forward with NPDWRs for six other chemicals; 1,1-dichloroethane, acetochlor, methyl bromide (bromomethane), metolachlor, nitrobenzene and Royal Demolition eXplosive.

The EPA said the jury is still out on whether to regulate strontium, 1,4-dioxane, and 1,2,3-trichloropropane.

While PFOA and PFOS have largely been phased out of use domestically, there are thousands more of the compounds being used.

In a separate action Thursday, the EPA proposed regulations on imported products that contain certain PFAS chemicals, such as PFOA, that are used as surface coatings.

"While EPA believes the use of these chemicals as surface coatings in imported goods has been phased out, this supplemental proposal would ensure that any new uses are reviewed by EPA before any products containing these chemicals could be imported into the United States again," the agency said.

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Bergen Record: New Jersey sues Trump's EPA again to curb air pollution entering from other states
<https://www.northjersey.com/story/news/environment/2020/02/19/nj-sues-trumps-epa-again-curb-air-pollution-other-states/4808209002/>

[Scott Fallon](#), NorthJerseyPublished 2:07 p.m. ET Feb. 19, 2020 | Updated 5:19 p.m. ET Feb. 19, 2020

While the air pollution in the U.S. has gotten cleaner in the past decade, pollution inequity has remained high. USA TODAY

New Jersey, four other states and New York City are suing the Trump administration again to try to force it to clamp down on upwind states that contribute significantly to poor air quality in the Garden State.

The lawsuit, filed by Attorney General Gurbir Grewal on behalf of the states, said the U.S. Environmental Protection Agency has failed to address the issue even after an appeals court ruled last year that it must do so.

"We already beat EPA in court and won an order demanding the federal government tackle out-of-state pollution, and yet EPA still did not act," Grewal said in a statement. "Enough is enough: this is a serious environmental and public health problem, and it demands a serious response from Washington."

Most New Jersey counties continue to fail for high ozone - the key ingredient of smog, which can cause difficulties for people with asthma and other ailments. *(Photo: American Lung Association)*

Enesta Jones, an EPA spokeswoman, said the agency does not comment on pending litigation.

Prevailing winds send pollution into New Jersey from Midwest states where there are coal-burning power plants, including Pennsylvania and Ohio.

About half of New Jersey's air pollution comes from other states, said Larry Hajna, a spokesman for the state Department of Environmental Protection.

That causes ozone levels to spike to unhealthy levels in New Jersey several days during the year.

North Jersey and New York City ranked as the 10th-worst metropolitan area in the U.S. for levels of ozone, the main ingredient in smog, which can trigger asthma attacks, according to a 2018 report by the American Lung Association.

Much of the Jersey Shore and the South Jersey counties outside Philadelphia also received failing grades over a three-year period from 2014 to 2016, the latest data show.

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Inside EPA: In Rare Step, EPA Proposes To Craft SDWA Limits For PFOA, PFOS

<https://insideepa.com/daily-news/rare-step-epa-proposes-craft-sdwa-limits-pfoa-pfos>

February 20, 2020

Under pressure from lawmakers, states and others, EPA is proposing to develop drinking water limits for two of the most-studied per- and polyfluoroalkyl substances (PFAS), only the second time the agency has found pollutants meet the Safe Drinking Water Act's (SDWA) criteria for setting such standards since the law was revised in 1996.

Administrator Andrew Wheeler signed the agency's proposed affirmative regulatory determination for perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) Feb. 20, saying the substances may have adverse human health effects, are found in drinking water systems with a frequency and at levels of public health concern, and that regulating the compounds will reduce health risks.

Any standards the agency eventually sets will act as treatment levels for drinking water utilities and cleanup requirements at hazardous waste sites.

The determination document notes that some states have established regulatory or guidance levels in drinking water for PFOA, PFOS, as well as other PFAS, and says setting a national-level standard "may provide additional national consistency and reduce regulatory uncertainty for stakeholders across the country."

EPA also says it is exploring how to develop potential regulatory approaches for other PFAS and is asking for comment on three options. These include evaluating each additional PFAS on an individual basis, evaluating additional PFAS by different grouping approaches, and evaluating PFAS based on drinking water treatment techniques.

The document also contains a proposed negative regulatory determination for six other chemicals the agency says do not occur with enough frequency or at high enough levels in public drinking water systems that regulation would represent a meaningful opportunity for health risk reduction.

Those chemicals are the solvent 1,1-dichloroethane; pesticides acetochlor, methyl bromide and metolachlor; nitrobenzene, which is used in the production of drugs such as acetaminophen and the manufacturing of paints, various polishes and pesticides; and the explosive RDX. The agency also says that it is continuing to postpone a final regulatory determination for strontium in order to further consider additional studies related to exposure and is waiting to make a preliminary determination for 1,4-dioxane and 1,2,3-trichloropropane until it has more data.

SDWA requires EPA to make regulatory determinations -- either negative or positive -- every five years on at least five unregulated contaminants. The determinations are based on three criteria: adverse human health effects, occurrence, and the opportunity for meaningful health risk reduction. A drinking water contaminant must meet all three criteria for an affirmative determination.

If finalized, the PFOA and PFOS determinations would be only the second time since EPA determined in 2011 to regulate perchlorate that the agency has taken such a step. Even though the agency issued a positive regulatory finding for perchlorate, it is still struggling to craft final standards.

The agency's failure to make such determinations in the case of PFOA and PFOS has led to widespread calls from lawmakers and others for the agency to act quickly though some state officials have also questioned whether Congress should not also amend SDWA to ease the regulatory criteria.

EPA's proposal drew a measured reaction from environmentalists, with Environmental Working Group Legislative Attorney Melanie Benesh saying in a Feb. 20 statement that the preliminary determination "shows that an avalanche of public pressure and overwhelming science is finally forcing EPA to act."

Benesh said EPA has wasted decades deciding whether to regulate PFAS and could take many more years before finalizing a drinking water standard but she urged states not wait for the EPA to act. "It will be years -- if ever -- before a final drinking water standard is set."

Health Effects

PFOA and PFOS are two of the most-studied PFAS, a class of thousands of chemicals widely used for their non-stick properties but which are increasingly raising concerns about their adverse health impacts.

While both PFOA and PFOS have been largely phased out, EPA notes several concerns. For example, the agency says that epidemiological studies show PFOA exposure being linked to high cholesterol, increased liver enzymes, decreased vaccination response, thyroid disorders, pregnancy-induced hypertension and preeclampsia, and testicular and kidney cancer. PFOS exposure is associated with increased total serum cholesterol and high-density lipoproteins.

The agency notes that it has set a non-binding lifetime exposure level of 70 parts per trillion for both PFOA and PFOS based on these health effects.

In evaluating the occurrence of the chemicals in public water systems, the agency relies on both data gathered through its third unregulated contaminant monitoring rule (UCMR3) as well as data collected by states.

"Consistent with the Agency's commitment in the PFAS Action Plan to present information about additional sampling for PFAS in water systems, the EPA has supplemented its UCMR data with data collected by states who have made their data publicly available at this time," the preliminary determination says.

Finally, EPA says that based on the significant public interest in the potential risks posed by PFOA and PFOS, and the information currently available to the EPA, the administrator has made the preliminary determination that regulation of PFOA and PFOS presents a meaningful opportunity for health risk reduction for persons served by public water systems.

“In determining that regulation of PFOA and PFOS presents a meaningful opportunity for health risk reduction for sensitive populations, the EPA was particularly mindful that PFOA and PFOS are known to be transmitted to the fetus via cord blood and to the newborn, infant, and child via breast milk,” the document says.

EPA included several other PFAS in its UCMR3, and the fiscal year 2020 defense authorization law requires monitoring of all unregulated PFAS for which the agency has a measuring method.

EPA has said it plans to propose UCMR5 in 2021, with public water systems slated to monitor listed chemicals between 2023 and 2025.

Three Other Pollutants

The agency also discusses three other pollutants for which it is still weighing whether to make a determination. EPA announced in late 2015 that it was delaying a final determination for strontium, an alkaline earth metal, and in the Feb. 20 document, the agency clarifies that it is continuing with that decision in order to further consider additional studies related to strontium exposure.

Furthermore, the agency is waiting to make a preliminary determination for 1,4-dioxane because EPA has not determined whether there is a meaningful opportunity for public health risk reduction. The number of baseline cancer cases related to 1,4-dioxane exposure is relatively low but analyses for other adverse health effects have not yet been completed, EPA says.

The agency intends to complete its new risk evaluation for 1,4-dioxane that is currently in draft form and consider it and a Canadian guideline technical document, as well as other relevant new science prior to making a regulatory determination, the document says.

And due to analytical method-based limitations, EPA says it is not making a preliminary determination on 1,2,3-trichloropropane at this time. -- *Lara Beaven* (lbeaven@iwpnews.com)

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EE News: EPA starts long road toward standards for 2 toxins

<https://www.eenews.net/greenwire/2020/02/21/stories/1062411861>

Ariana Figueroa, E&E News reporter Published: Friday, February 21, 2020

EPA announced it will start the process of setting drinking water standards for two toxic chemicals known as per- and polyfluoroalkyl substances, or PFAS, that have contaminated drinking water supplies across the United States.

Specifically, EPA will set standards for perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS), which out of a class of more than 7,000 chemicals are the two most studied types of PFAS.

An independent panel of scientists found a probable link between exposure to PFOA and multiple health problems, such as high cholesterol, thyroid disease, and testicular and kidney cancer, as well as pregnancy-induced hypertension. PFOS is linked to similar health problems.

PFAS are used in commercial products such as nonstick cookware and waterproof clothing. The chemicals were also used by the Department of Defense in firefighting foam.

EPA's regulatory determination under the Safe Drinking Water Act is a step toward proposing limits in drinking water. However, the exact limit the agency will set will not be known for a while.

"We could be many years away," said Scott Faber, senior vice president for governmental affairs at the Environmental Working Group. "What remains unanswered is how protective that drinking water standard will be."

The agency released nonbinding cleanup guidance for groundwater contaminated with PFOA and PFOS at 70 parts per trillion last year, but many health advocates raised concerns that the levels were too high (*E&E News PM*, April 25, 2019). One part per trillion is a drop of water in an Olympic-sized swimming pool.

EPA will seek public comment on its proposed regulatory determination for 60 days. The agency also proposed yesterday not to regulate 1,1-dichloroethane; acetochlor; methyl bromide; metolachlor; nitrobenzene; and RDX.

EPA Administrator Andrew Wheeler said in a statement that yesterday's regulatory determination shows the agency is committed to addressing PFAS.

"Under President Trump's leadership, EPA is following through on its commitment in the Action Plan to evaluate PFOA and PFOS under this Act," Wheeler said.

Through the agency's PFAS action plan, EPA planned to announce whether or not it would regulate the two chemicals by the end of 2019, but it missed that deadline, sparking concern from senators (*Greenwire*, Feb. 18).

Health and environmental groups remain worried that the process to regulate the chemicals will take years and that the maximum contaminant levels will not be protective enough.

"Time will tell whether it results in meaningful protection," Faber said.

In the meantime, states have moved to regulate the chemicals and set their own standards. Faber said states should continue to regulate on their own because it could take EPA years to promulgate an enforceable standard.

"EPA has a deep, disappointing record of setting new drinking water standards or even reviewing and updating old drinking water standards," he said.

Another concern is how water utilities and consumers will be affected by a new standard. The burden of cleaning up PFAS contamination would fall on utilities and raise the cost of water bills for the public, Faber said.

"It's absurd that EPA would pass all of the cost of cleaning up corporate pollution to ordinary people that President Trump claims to care about," he said.

EPA's announcement comes after pressure from Republican and Democratic lawmakers on Capitol Hill. House and Senate lawmakers have worked to attach PFAS provisions to must-pass spending bills and have pressed EPA officials to set drinking water standards for the two chemicals.

House Democrats passed a PFAS package that would require EPA to set drinking water standards for the chemicals and designate PFOA and PFOS as hazardous substances, which would spark federal cleanup efforts, along with a host of other requirements.

House Republicans Greg Walden of Oregon and John Shimkus of Illinois praised EPA's proposal in a joint statement.

"This is an important step forward under both the EPA's PFAS Action Plan and the Safe Drinking Water Act to address PFOA and PFOS in drinking water," they said.

EPA yesterday also issued a proposal for limiting imports of products — such as furniture, electronics and other household items — made with PFOA and other long-chain PFAS.

The agency will take public comment on that proposal for 45 days.

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EE News: Groups to Wheeler: Cut truck NOx emissions by 90%

<https://www.eenews.net/greenwire/2020/02/21/stories/1062411657>

[Maxine Joselow](#), E&E News reporter Published: Friday, February 21, 2020

Public health groups and air pollution regulators are urging EPA Administrator Andrew Wheeler to crack down on harmful emissions from big trucks.

At issue is the Cleaner Trucks Initiative, the agency's effort to strengthen nitrogen oxides (NOx) emissions standards for heavy-duty trucks. EPA announced Jan. 6 that it was accepting public comments on the initiative.

Exposure to NOx emissions is linked to a variety of health problems, including asthma and premature death. The standards have not been updated in 19 years, despite a provision in the Clean Air Act mandating periodic review.

The Cleaner Trucks Initiative is a rare example of the Trump administration's EPA strengthening an environmental regulation, rather than weakening or delaying a rule.

Yet EPA has not committed to a certain level of stringency in the final rule. And E&E News previously reported that the initiative comes after intense lobbying by the truck industry, including Cummins Inc., an influential engine manufacturer with ties to Vice President Mike Pence (*Greenwire*, Jan. 28).

In [public comments](#) submitted yesterday, a coalition of eight public health and medical organizations urged Wheeler to commit to producing a stringent final rule that delivers meaningful emissions reductions.

"A carefully designed and health-protective Cleaner Trucks Initiative (CTI) to control harmful emissions from the heavy-duty vehicle sector is critical to protecting human health from nearby sources of truck traffic," the groups wrote.

In particular, the groups called for EPA to collaborate with the California Air Resources Board on developing a national rule that achieves a 90% reduction in NOx emissions over the current standard.

"This level of reduction is feasible through the smart application of existing technologies and will yield significant real-world benefits across the United States at similar or lower costs to existing control technologies," they wrote.

The organizations signing the comments included the American Lung Association, Alliance of Nurses for Healthy Environments and Children's Environmental Health Network.

Separately, the National Association of Clean Air Agencies submitted [public comments](#) yesterday that echoed the call for a 90% reduction in NOx emissions over the current standards.

The association argued that a stringent national standard would be crucial to helping dozens of states meet national ambient air quality standards for ozone, particulate matter and other pollutants.

"The technology for lower-emitting engines is feasible, available and cost-effective," wrote NACAA, which represents air pollution regulators in 41 states.

"It has been 19 years since EPA last set the heavy-duty on-highway NOx standards," the association added. "Since that time, numerous engine technologies and controls to lower emissions have been successfully demonstrated and, as recent and ongoing studies show, more continue to emerge."

Asked for comment, an EPA spokesperson said in an email to E&E News: "We will consider and review all comments before the rule is finalized."

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EE News: Greens go after emergency pesticide approvals

<https://www.eenews.net/greenwire/2020/02/21/stories/1062411783>

Marc Heller, E&E News reporter

Published: Friday, February 21, 2020

An environmental group is seeking to limit federal emergency approvals of pesticides, telling EPA the practice has become far too widespread.

In a [petition](#) asking the agency to draft formal regulations, the Center for Biological Diversity urged EPA to limit the emergency approvals to no more than two years in any 10-year period.

CBD, which is generally critical of pesticide use, said the emergency measures have become more like permanent pesticide approvals — without the required in-depth environmental and health safety reviews and opportunity for public comment. In some cases, farm chemicals have been approved for as long as nine years.

"We have to end this backdoor pesticide approval process that compromises the health of farmworkers, children and imperiled pollinators," said Stephanie Parent, a CBD lawyer. "Limiting emergency approvals to two years will prevent the EPA from routinely sidestepping the health and safety reviews that determine whether a pesticide's risks to people and wildlife are acceptable."

An EPA spokesman said in a statement: "We have received the petition and will respond as appropriate."

At issue are exemptions from the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), allowing pesticides that are already cleared for use on some crops to be used on other types of plants. EPA grants exemptions for insect infestations or diseases that are out of the ordinary or that would cause major economic harm, with few alternative treatments available.

The insecticide sulfoxaflor stands out as an example. In response to cotton and sorghum growers in certain states, EPA has repeatedly granted exemptions for sulfoxaflor to kill tarnished plant bugs and sugarcane aphids. At least 78 such exemptions were granted between 2011 and 2017, CBD said, even though the agency had disallowed its use generally on cotton in 2015, citing threats to pollinators.

In granting exemptions last June, EPA said, officials "determined that the devastating spread of the pests and potential economic loss to the growers met the criteria for an emergency exemption. The tarnished plant bug and sugarcane aphid are massive threats to cotton and sorghum crops, respectively. There are few viable options for controlling these problems, and pests have developed resistance to some of the former alternatives."

In addition, the agency said, sulfoxaflor can be applied fewer times than other pesticides because it's more effective. Approvals typically cover a certain number of acres in a state, although growers don't always treat the maximum area allowed.

Those exemptions covered 12 states for cotton and 14 states for sorghum.

In a news release, CBD said that emergency exemptions are granted with little public notice or input and that often the chemicals' manufacturers are the only source of information about potential risks.

CropLife America, the industry group representing farm chemical manufacturers, defended EPA's approach in a statement and said it's reviewing CBD's petition.

"In Section 18 of FIFRA, Congress recognized that emergency conditions may exist that require EPA to respond to critical pest control needs facing farmers," said CropLife CEO Chris Novak. "We support EPA's work, in coordination with USDA and the states, to provide farmers and other users the tools they need to combat pests in these situations."

EPA's emergency exemption process has gained attention from the agency's inspector general, which in 2018 said EPA lacked measures to show how well human health and environmental safeguards are being maintained. EPA said it would develop those measures by this June.

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EE News: Pushback against states' group prompts request for IG review

<https://www.eenews.net/greenwire/2020/02/21/stories/1062411659>

[Kevin Bogardus](#), E&E News reporter Published: Friday, February 21, 2020

A liberal-leaning watchdog organization has asked EPA's inspector general to investigate alleged "covert propaganda" stemming from a dispute with a state environmental regulators' group.

In a [letter](#) to EPA Inspector General Sean O'Donnell, Democracy Forward requested the office dig deeper into statements by state agency leaders praising EPA. A senior EPA official had helped write the comments last September when the Environmental Council of the States criticized the federal agency after it threatened sanctions against California for water quality issues and threatened to revoke federal highway funds over Clean Air Act compliance issues.

[Emails and text messages](#) obtained by E&E News under public records requests show that Doug Benevento, EPA's associate deputy administrator, helped draft those comments the day before ECOS' [letter](#) critical of EPA was released to the public. EPA then [shared](#) those remarks with reporters who contacted the agency for comment on ECOS' letter the following day ([Greenwire](#), Jan. 23).

The role of Benevento, whom President Trump plans to nominate for deputy administrator at the agency, in those statements was not disclosed at the time, which has sparked Democracy Forward's request to the IG.

"The facts as reported in E&E News — and as documented by the underlying [Freedom of Information Act] records — raise troubling questions regarding whether EPA officials have violated federal laws prohibiting the expenditure of government funds to mislead the American people through covert propaganda," said Anne Harkavy, the group's executive director, and Travis Annatoyn, its senior counsel, in the Feb. 12 letter.

"Accordingly, we respectfully request that you investigate EPA's role in drafting, disseminating, and falsely attributing statements of support for agency policies," the letter says.

The letter cites several examples of the Government Accountability Office finding agencies had engaged in prohibited "covert propaganda," including the congressional watchdog's 2015 [opinion](#) that EPA had done so in its social media campaign in support of the Obama administration's version of the Waters of the U.S. rule.

Democracy Forward's letter also alleges Benevento's correspondence with the state agency officials "likely violates the anti-propaganda law."

"Associate Deputy Administrator Benevento evidently organized a scheme whereby the Administration's talking points would appear to flow from state officials instead of their actual author: the EPA itself," said the group.

"The Associate Deputy Administrator made no effort to ensure that the public would understand the government's preeminent 'role in creating the material,' and consumers of EPA's press release had no means of discerning that statements 'contrary to [ECOS]' assertions' were merely components of EPA's self-authored, self-serving communications strategy instead of expressions of support generated by the state officials," says the letter.

An EPA spokeswoman rejected the charges in Democracy Forward's letter.

"These allegations are baseless and without merit. EPA has a strong relationship with state leaders and continues to work and meet with states on both policy and implementation regularly," said the EPA spokeswoman.

She added, "Senior staff at EPA has met numerous times with state environmental leaders and we look forward to working closely with them in the future. This Administration, as many others before, cooperate with States on policy matters, and this is no different."

Charisma Troiano, a spokeswoman for Democracy Forward, said the group has not received a response letter from the EPA IG office.

EPA Office of Inspector General spokesman Jeff Lagda told E&E News the watchdog office had received Democracy Forward's letter.

"Democracy Forward's request for an OIG review is currently being considered by the IG and his leadership team," Lagda said.

The discord between EPA and ECOS has fueled worries over an EPA detailee to the group who was recalled as well as EPA's funding for the group. The federal agency has sent millions of dollars to ECOS over the years.

In a [letter](#) to EPA Administrator Andrew Wheeler earlier this month, Sens. Tom Carper (D-Del.) and Sheldon Whitehouse (D-R.I.) said they had learned EPA may have withheld or delayed more than \$250,000 in grant funding to ECOS. The senators noted that ECOS had been waiting for months for the funding, which is usually disbursed in September or October of the year.

An EPA spokesman later said the agency was prepared to release \$265,000 in grant money to ECOS. The agency has denied it ever threatened funding for the states' group ([Greenwire](#), Feb. 6).

Reporter Ariel Wittenberg contributed.

The notice comes the day after the agency announced it would set a [national drinking water standard](#) for PFAS.

TAGS PFAS

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The Hill: EPA moves to limit financial pressure on 'forever chemical' manufacturers under cleanup law

<https://thehill.com/policy/energy-environment/484055-epa-moves-to-limit-financial-pressure-on-forever-chemical>

BY REBECCA BEITSCH - 02/21/20 11:53 AM EST 180

A proposal from the Environmental Protection Agency (EPA) would absolve the nation's manufacturers of cancer-linked "forever chemicals" from broad financial responsibility for cleaning up their product as it leaches into the water supply across the country.

The class of chemicals known as PFAS, which are noted for their persistence in both the environment and the human body, are used in a variety of nonstick products.

As PFAS contamination spreads into city water supplies in every state but Hawaii, there has been growing pressure from lawmakers to have manufacturers help fund cleanup efforts.

A notice of the EPA's proposed rule posted to the Federal Register Friday would exclude manufacturers of PFAS from providing financial assurances under the Superfund law, which directs the cleanup of hazardous waste sites. Companies would not be required to prove they have the financial backing to clean up any contamination.

The move comes as data shows the Trump administration has the highest number of unfunded construction projects at Superfund sites of the last 15 years.

Melanie Benesh, an attorney with the Environmental Working Group, which tracks PFAS contamination, said the move is part of an unfortunate trend in which the government seeks funds only after there is a problem.

"If you don't require these companies that are the most likely to be contributing to Superfund contamination, if you're not asking them to provide financial assurances, EPA may not be able to recover money to clean up that site, and there may not be enough in appropriated funds to clean up that site," she said.

"This is a relatively small burden on companies. They're not asking them to pay anything at this point; they're asking them to show they have the money — that if you dump a bunch of chemicals in people's air or drinking water that you at least have the money to clean it up, which seems like the bare minimum that we should be expecting."

EPA argues that current management practices at PFAS facilities do not pose a financial risk taxpayers, who would otherwise foot the bill for a cleanup.

"The degree and duration of risk associated with the modern production, transportation, treatment, storage or disposal of hazardous substances by the chemical manufacturing industry does not present a level of risk of taxpayer funded response actions that warrant imposition of financial responsibility requirements for this sector," the EPA wrote.

If finalized, the EPA would still retain the power to impose Superfund responsibilities at individual contaminated sites.

Some lawmakers have been pushing hard to have PFAS sites designated as hazardous under the Superfund law in order to open more funding for cleanups. Such a provision was included in sweeping PFAS legislation passed by the House in January, though it's expected to have little prospect in the Senate.

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ABC 7 Bay Area: What is TCE?: Here's what you need to know about chemical detected near McClymonds HS

<https://abc7news.com/health/what-is-tce-the-effects-of-trichloroethylene-chemical-exposure-to-the-body/5953619/>

Friday, February 21, 2020 1:17AM

SAN FRANCISCO (KGO) -- Oakland's McClymonds High School has shut down its campus indefinitely on Thursday after detecting a potentially harmful chemical trichloroethylene (TCE) in its groundwater.

But what is trichloroethylene?

Trichloroethylene or TCE, is a "clear, colorless liquid that has a sweet odor and evaporates quickly," according to the Environmental Protection Agency.

It is produced for mainly commercial uses, such as a solvent for refrigerants and at dry cleaning facilities.

The EPA says TCE is carcinogenic and exposure to the chemical can raise a number of health concerns, including "light-headedness, drowsiness, and headaches."

Short-term exposure can potentially affect the developing fetus in pregnant women, and prolonged exposure can cause damage to the liver, kidneys, immune system and the central nervous system.

TCE can be found in underground and surface water sources as a result of the manufacture, use and improper disposal of the chemical. It can easily get in water and rise up through the soil due to its ability to evaporate easily.

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Inside EPA: EPA's MATS Rollback Stalls At OMB Over Cost-Benefit Confusion, Opposition

<https://insideepa.com/daily-news/epa%E2%80%99s-mats-rollback-stalls-omb-over-cost-benefit-confusion-opposition?s=na>

February 21, 2020

EPA has been unable to finalize potentially threshold changes underlying the cost-benefit analysis of its Mercury & Air Toxics Standards (MATS) rule because regulatory reviewers at the Office of Management & Budget (OMB) do not understand the measure's broader goals, which is to narrow how benefits are calculated.

OMB reviewers are also hearing a chorus of opposition from the utility industry, which long ago spent billions to comply with the rule.

A senior White House official says OMB is likely to sit on the rule "until it dies," unless there is a political intervention. The official says the pending return to EPA of Mandy Gunasekera, who will serve as chief of staff to Administrator Andrew Wheeler, may help to get the rule moving again.

Gunasekera had served principal deputy air administrator for former Administrator Scott Pruitt and left the agency to run a pro-Trump group advocating the administration's environmental deregulatory agenda.

The rule, which has been under formal OMB review since last October, would scrap a finding that it is "appropriate and necessary" to regulate utilities' air toxics under Clean Air Act section 112, even though the agency is proposing to leave the MATS reductions in place.

Environmental and public health groups charge that the proposal to scrap the MATS rule's "appropriate and necessary" finding would "undermine" a key foundation of the standards, essentially inviting coal groups or other critics to try to scrap the standards themselves or not comply with them, arguing that the agency has removed the rule's underlying legal basis.

But supporters say that the rollback is needed to end a dangerous cost-benefit analysis precedent under the rule in which Obama officials largely justified their action not on the direct benefits of controlling mercury but on related health benefits from reductions in particulate matter (PM) that occur incidentally and are not directly regulated by MATS.

As such, it would also set a precedent for Trump administration efforts to write a separate rule eliminating use of co-benefits in the air program where the dramatic benefits of PM cuts could no longer be counted.

John Walke of the Natural Resources Defense Council (NRDC) calls EPA's broader, cost-benefit rulemaking an "act of desperation" that illustrates the agency's lack of authority to pursue such changes.

But he also notes that the rollback measure is struggling to win OMB approval. “The repeal of the MATS finding has evidently run into a buzzsaw” at OMB’s Office of Information & Regulatory Affairs (OIRA), Walke said.

Walke said that the measure likely continues to languish because dropping consideration of co-benefits runs afoul of OMB guidance known as Circular A-4, which generally requires agencies to “identify the expected undesirable side-effects and ancillary benefits” of a proposed regulatory action.

He also points to indications that OIRA had concerns before the rule was proposed but “let it go” and allowed the draft rule to go forward.

But now, with the final rule teed up, the administration is in a position of having to respond to comments that it is inconsistent with OIRA’s own guidance, and that there is “no defensible explanation” for ignoring co-benefits.

One industry source agrees that the delay is because “they’ve got themselves tied in knots over how to deal with co-benefits.”

Meanwhile, Gunasekara defended the MATS rule at a Feb. 6 House oversight panel hearing where she argued there were flaws in how the Obama administration assessed benefits to help justify the rule, saying that approach allows EPA to “justify any regulatory action regardless of cost.”

She also noted that the overall air toxics reduction requirements would remain in place even if the appropriate and necessary determination is withdrawn.

However her claims were challenged by environmental and public health groups who charged that the changes would “undermine” the rule and invite coal groups and others to try to scrap the standards themselves in court by arguing EPA had removed the underlying legal basis for the requirements.” -- *Dawn Reeves* (dreeves@iwpnews.com) & *Doug Obey* (dobey@iwpnews.com)

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